

NORTH CAROLINA REGISTER

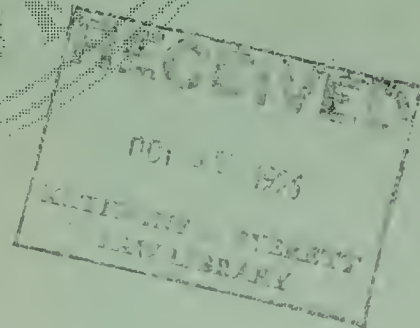
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List of Rules Codified
Rules Review Commission
Contested Case Decisions

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NORTH CAROLINA REGISTER

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volume and issue number	issue date	last day for filing	end of com- ment period	earliest reg- ister issue for publica- tion of text	earliest date for public hearing	A. non-substantial economic impact			B. substantial economic impact		
						end of re- quired com- ment period	deadline to submit to RRC for review at next RRC meeting	first legisla- tive day of the next regular ses- sion	end of re- quired com- ment period	deadline to submit to RRC for review at next RRC meeting	first legisla- tive day of the next regular ses- sion
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EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2B .0103 and the Rules of Civil Procedure, Rule 6.

GENERAL	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p> <ul style="list-style-type: none">(1) temporary rules;(2) notices of rule-making proceedings;(3) text of proposed rules;(4) text of permanent rules approved by the Rules Review Commission;(5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;(6) Executive Orders of the Governor;(7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;(8) orders of the Tax Review Board issued under G.S. 105-241.2; and(9) other information the Codifier of Rules determines to be helpful to the public.	<p>ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.</p> <p>LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.</p>	<p>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS: This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p> <p>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT: The date of the next issue following the end of the comment period.</p>	<p>EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p> <p>END OF REQUIRED COMMENT PERIOD</p> <p>(1) RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT: An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.</p> <p>(2) RULE WITH SUBSTANTIAL ECONOMIC IMPACT: An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.</p> <p>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.</p> <p>FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.</p>

**EXECUTIVE ORDER NO. 99
EMERGENCY RELIEF FOR DAMAGE
CAUSED BY HURRICANE FRAN**

WHEREAS, I have proclaimed that a state of emergency and threatened disaster exists in North Carolina due to Hurricane Fran; and

WHEREAS, the United States Department of Transportation, in conjunction with the North Carolina Department of Transportation, has declared a regional emergency justifying an exemption from 49 C.F.R. 390-399 (Federal Motor Carrier Safety Regulations); and

WHEREAS, under the provisions of N.C.G.S. 166A-4(3) and 166A-6(c)(3), the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that if vehicles bearing food, equipment, and supplies to relieve our hurricane-stricken counties must adhere to the weight restrictions of N.C.G.S. 20-88, 20-96 and 20-118, citizens in those counties likely will suffer losses and, therefore, there is an imminent threat of widespread damage within the meaning of N.C.G.S. 166A-4(3);

THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State, and with the concurrence of the Council of State, **IT IS ORDERED:**

Section 1. The Division of Motor Vehicles shall waive size and weight restrictions and penalties therefor arising under N.C.G.S. 20-88, 20-96, and 20-118 for vehicles transporting food, equipment, and supplies, including necessary utility vehicles along our highways to North Carolina's hurricane-stricken counties.

Section 2. Notwithstanding the waivers set forth above, restrictions and penalties shall not be waived under the following conditions:

- (A) When the vehicle weight exceeds the maximum gross vehicle weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross vehicle weight, whichever is less.
- (B) When tandem axle weights exceed 42,000 pounds and single axle weights exceed 22,000 pounds.
- (C) When vehicle/vehicle combination exceeds 12 feet in width and a total overall combination vehicle length of 65 feet from bumper to bumper.

Section 3.

- (A) Upon entering North Carolina, the vehicles will stop at the first available vehicle weight station and produce identification sufficient to establish that its load will be used for the Hurricane Fran relief and recovery effort. All other safety restrictions apply. If returning vehicles are loaded with backhaul unrelated to Hurricane Fran, all normal weight and permit restrictions apply.
- (B) The \$50.00 fee listed in N.C.G.S. 105-449.49 for a temporary trip permit is waived for the vehicles described above. The penalties described in N.C.G.S. 20-382 concerning insurance registration are waived also. Finally, no quarterly fuel tax is required because the exception in N.C.G.S. 105-449.45(a)(1) applies.
- (C) The vehicles will be allowed only in primary and interstate routes designated by the North Carolina Department of Transportation.

Section 4. Vehicles described in Section 1 which are nonparticipants in North Carolina's International Registration Plan will be permitted to pass through North Carolina in accordance with the spirit of the exemptions identified by this Executive Order.

Section 5. The North Carolina Department of Transportation shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner in which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 6. This Order shall not be in effect on bridges posted pursuant to N.C.G.S. 136-72.

This Executive Order shall be effective immediately and shall remain in effect for 30 days.

Done in the Capital City of Raleigh, North Carolina this 5th day of September, 1996.

**EXECUTIVE ORDER NUMBER 100
ESTABLISHING THE GOVERNMENT
INFORMATION LOCATOR SERVICE
COORDINATING COMMITTEE**

WHEREAS, North Carolina General Statute 143-3.5 directs the Office of State Planning to coordinate the collection, development, dissemination, and analysis of statistical data in state government; and,

WHEREAS, a global locator service for all state government databases is critical to performance planning

and budgeting; and,

WHEREAS, North Carolina General Statute 132-6.1(b) requires that "every public agency shall create an index of computer databases compiled or created by a public agency", but does not require coordination of formats across agencies, indexing of databases created prior to July 1, 1996, or development of a global locator service; and,

WHEREAS, North Carolina state government agencies are developing independent technical solutions for indexing their electronic databases; and,

WHEREAS, North Carolina state government agencies are facing critical issues related to data standards, such as those resulting from the century-compliant date requirements for year 2000, the need to share data across agency boundaries and the requirements for managing software applications as state assets, issues the resolution of which require a searchable inventory of existing databases; and,

WHEREAS, a unified and coordinated effort to develop a global government information locator service would provide agencies with tools for indexing their electronic databases, become a valuable management tool for all agencies, be more cost-effective if done collaboratively rather than each agency developing technical solutions, improve the public's access to state government information, help to ensure compatibility with the federal government Information Locator Service (GILS), assist the Information Resource Management Commission with its responsibilities for data management programs, and assist the Office of State Planning in carrying out its missions of performance budgeting and planning and maintenance of a register of statistical data series.

NOW, THEREFORE by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Establishment of the Government Information Locator Service Coordinating Committee

There is hereby established the Government Information Locator Service Coordinating Committee ("Committee").

Section 2. Duties of the Committee

A. Provide leadership and coordination in the development of an electronic Government Information Locator Service in North Carolina that will meet the needs of the state's citizens for improved access to state government information and meet the needs of state agency management for locating information related to measuring and evaluating programs and performance.

B. Establish data indexing content standards for the locator service, adhering to the North Carolina public

records law (Chapter 132 of the North Carolina General Statutes) and building upon the "Public Database Indexing Guidelines and Recommendations" developed by the Division of Archives and History, North Carolina Department of Cultural Resources.

C. Establish technical standards for the locator service that will ensure compatibility with nationally and internationally recognized standards of electronic information exchange.

D. Foster collaboration among state agencies to reduce duplication of effort and provide for an efficient and cost-effective locator service.

E. Sponsor the development and demonstration of a prototype project or projects that provide appropriate tools for a global state government information locator service.

F. Encourage and facilitate the development of high quality in data indexing information to describe state agency data resources and provide a sound basis for global indexing.

G. Disseminate information among state agencies regarding standards, technology, indexing protocols, and other aspects of a locator service.

H. Facilitate the exchange of state government information on a regional; national, and international basis.

I. Coordinate data indexing content standards and information locator service prototype development with technology and data transfer standards established by the Information Resource Management Commission.

Section 3. Membership of the Committee

The Director of the Office of State Planning, or designated representative, will Chair the Committee. The State Librarian and the State Archivist, Department of Cultural Resources, will serve as Vice Chairs. The agency heads of the following organizations shall designate members as provided below to serve on the Committee.

A. Two representatives of the Office of State Planning in addition to the Chair;

B. Two representatives of the Department of Cultural Resources in addition to the Vice Chairs;

C. Two representatives of the Department of Administration;

D. Two representatives of the Department of Correction;

E. Two representatives of the Department of Environment, Health, and Natural Resources;

F. Two representatives of the Department of Commerce;

G. Two representatives of the Department of Human Resources;

H. One representative of the Information Resource Management Division, Office of State Controller;

I. One representative of the State Information Processing Services, Office of State Controller;

J. One representative of the Office of State Budget and Management;

K. One representative of the Association of County

Commissioners; and

L. One representative of the League of Municipalities.

Additional agencies may be represented on the Committee as determined by the Committee.

Section 4. Agencies' Contributions

Each represented agency will provide in-kind services, especially staff time, towards this Committee. In-kind services include the time invested by Committee members.

Section 5. Sub-Commit

The Committee will establish sub-committees as needed to assist in such areas as technical standards, systems design, and programming.

Section 6. Time Period

The Committee will convene by September 13, 1996, meet at least monthly, develop a prototype by December 1996, and will complete its duties by December 1997. This Executive Order shall terminate upon completion of all duties by the Committee.

This Executive Order shall become effective immediately.

Done in Raleigh, North Carolina, this 12th day of September, 1996.

**EXECUTIVE ORDER NO. 101
PSYCHOLOGISTS AND SOCIAL WORKERS
LICENSED OR CERTIFIED OUT OF
STATE PERMITTED TO PROVIDE CRISIS
COUNSELING FOR VICTIMS OF
HURRICANE FRAN**

WHEREAS, Hurricane Fran has had a devastating impact on the State of North Carolina; and,

WHEREAS, the American Red Cross is able to provide qualified psychologists and social workers licensed or certified outside the State of North Carolina to assist victims of Hurricane Fran, and disaster relief workers, with crisis counseling; and,

WHEREAS, the provision of these psychologists and social workers would be of great value to those in need of such services; and,

WHEREAS, the North Carolina General Statutes and the North Carolina Administrative Code impose certain licensure requirements on out of state psychologists and certification requirements on social workers; and,

WHEREAS, to gain the full benefit of services to be provided, there is a need to temporarily suspend these

requirements.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State, **IT IS ORDERED:**

Section 1. Psychologists licensed outside the State of North Carolina provided by the American Red Cross for the provision of crisis counseling to North Carolina victims of Hurricane Fran, including disaster relief workers, shall be permitted to engage in the practice of psychology in this State, for the limited purposes expressed herein and on a voluntary basis only, for the duration of this Executive Order.

Section 2. Psychologists subject to this Executive Order shall be exempt from the licensure requirements of the North Carolina Psychology Practice Act (North Carolina General Statutes Chapter 90, Article 18A) and any related Administrative Rules within the North Carolina Administrative Code.

Section 3. Social workers licensed outside the State of North Carolina provided by the American Red Cross for the provision of crisis counseling to North Carolina victims of Hurricane Fran, including disaster relief workers, shall be permitted to provide crisis intervention, problem management, case management, and general counseling, for the limited purposes expressed herein and on a voluntary basis only, for the duration of this Executive Order.

Section 4. Social workers subject to this Executive Order shall be exempt from the certification requirements of the North Carolina Social Worker Certification Act (North Carolina General Statutes Chapter 90B) and any related Administrative Rules within the North Carolina Administrative Code.

This Executive Order shall be effective immediately and shall remain in effect for thirty days.

Done in the Capital City of Raleigh, North Carolina, this 12th day of September, 1996.

This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:

The Denial of the Income Tax Refund
for the taxable year 1992 by the
Secretary of Revenue against
William D. and Margaret Brewer

ADMINISTRATIVE
DECISION NUMBER: 317

THIS MATTER was heard before the Tax Review Board on April 23, 1996 in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer. It involved the petition for administrative review filed by William D. and Margaret Brewer (hereinafter "Taxpayers") from the Final Decision of Michael A. Hannah, Assistant Secretary for Legal and Administrative Services (hereinafter "Assistant Secretary") entered on May 2, 1995 denying an individual income tax refund for the taxable year 1992.

Chairman Harlan E. Boyles, State Treasurer presided over the hearing with Hugh A. Wells, Chairman, Utilities Commission and duly appointed member, Noel L. Allen, Attorney at Law participating.

The Taxpayer was represented at the hearing by Ashley C. Morris, Jr., and Michael H. Burton of Deloitte & Touche, LLP; Marilyn R. Mudge, Assistant Attorney General, appeared on behalf of the Department of Revenue.

After the hearing, the Board took the matter under advisement pursuant to G.S. §105-241.2(b1). On May 30, 1996, a post-hearing brief was filed on behalf of the Secretary of Revenue and a response letter was filed upon behalf of the Taxpayer. On July 23, 1996, the Board reviewed the petition, brief, response letter, and the Assistant Secretary's decision.

The scope of administrative review for petitions filed with the Tax Review Board is governed by G.S. §105-241.2(b2). G.S. §105-241.2(b2) states in pertinent part:

(b2)... the Board shall confirm, modify, reverse, reduce
or increase the assessment or decision of the Secretary.

AND IT APPEARING TO THE TAX REVIEW BOARD, after review of the petition, brief, response letter, record filed in this matter and final decision, that the findings of fact made by the Assistant Secretary were fully supported by competent evidence in the record, that the conclusions of law made by the Assistant Secretary were fully supported by the findings of fact, and that the decision of the Assistant Secretary was fully supported by the conclusions of law;

IT IS THEREFORE ORDERED, that the Final Decision of the Assistant Secretary is **CONFIRMED** in every respect.

Entered this the 3rd day of September, 1996.

TAX REVIEW BOARD

Harlan E. Boyles, Chairman
State Treasurer

Hugh A. Wells
Chairman Utilities Commission

Noel L. Allen, member

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
TAX REVIEW BOARD

IN THE MATTER OF:

The Proposed Assessment of
additional Individual Income
Tax for the taxable year 1988
against Candyce E. Newsome

ADMINISTRATIVE
DECISION NUMBER: 318

THIS MATTER was heard before the Tax Review Board (hereinafter "Board") on July 23, 1996, in the office of the State Treasurer in the City of Raleigh, Wake County, North Carolina. It involves a Petition for administrative review filed by Candyce E. Newsome (hereinafter "Taxpayer") from the Final Decision of Michael A. Hannah, Assistant Secretary for Legal and Administrative Services for the Department of Revenue (hereinafter "Assistant Secretary") entered on May 16, 1995, sustaining a proposed assessment of additional individual income tax for the taxable year 1988.

Chairman Harlan E. Boyles, State Treasurer presided over the hearing with ex officio member, Hugh A. Wells, Chairman, Utilities Commission and duly appointed member, Noel L. Allen, Attorney at Law.

The Taxpayer did not appear at the hearing; Marilyn R. Mudge, Associate Attorney General, appeared on behalf of the Department of Revenue. Pursuant to G.S. §105-241.2(b1), the Tax Review Board conducted the hearing upon review of the petition, documents filed by the Taxpayer and the records transmitted by the Secretary of Revenue.

The scope of administrative review for petitions filed with the Tax Review Board is governed by G.S. §105-241.2(b2). After conducting a hearing, G.S. §105-241.2(b2) states in pertinent part:

(b2)... the Board shall confirm, modify, reverse, reduce,
or increase the assessment or decision of the Secretary.

AND IT APPEARING TO THE BOARD: after review of the petition, the documents filed by the Taxpayer and the record in this matter, that the findings of fact made by the Assistant Secretary were fully supported by competent evidence in the record, that the conclusions of law made by the Assistant Secretary were fully supported by the findings of fact, and that the decision by the Assistant Secretary was fully supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Final Decision of the Assistant Secretary is **CONFIRMED** in every respect.

Entered this the 3rd day of September, 1996.

TAX REVIEW BOARD

Harlan E. Boyles, Chairman
State Treasurer

Hugh A. Wells
Chairman Utilities Commission

Noel L. Allen, member

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
TAX REVIEW BOARD

IN THE MATTER OF:

The Proposed Assessment of
additional sales and use tax
for the period beginning October 1,
1990 and ending September 30, 1993
against Phoenix Ski Corporation

ADMINISTRATIVE
DECISION NUMBER: 319

THIS MATTER was heard before the Tax Review Board (hereinafter "Board") on July 23, 1996, in the office of the State Treasurer in the City of Raleigh, Wake County, North Carolina. It involved a Petition for administrative review filed by Phoenix Ski Corporation (hereinafter "Taxpayer") from the Final Decision of Michael A. Hannah, Assistant Secretary for Legal and Administrative Services for the Department of Revenue (hereinafter "Assistant Secretary") entered on September 16, 1994 sustaining a proposed assessment of additional sales and use tax for the period beginning October 1, 1990 and ending September 30, 1993.

Chairman Harlan E. Boyles, State Treasurer presided over the hearing with ex officio member, Hugh A. Wells, Chairman, Utilities Commission and duly appointed member, Noel L. Allen, Attorney at Law.

The Taxpayer did not appear at the hearing; George W. Boylan, Special Deputy Attorney General, appeared on behalf of the Department of Revenue. Pursuant to G.S. §105-241.2(b1), the Tax Review Board conducted the hearing upon review of the petition, memorandum and brief filed, the record transmitted by the Secretary of Revenue and the Assistant Secretary's decision.

The scope of administrative review for petitions filed with the Tax Review Board is governed by G.S. §105-241.2(b2). After conducting a hearing, G.S. §105-241.2(b2) states in pertinent part:

(b2)... the Board shall confirm, modify, reverse, reduce,
or increase the assessment or decision of the Secretary.

AND IT APPEARING TO THE BOARD: after review of the petition, the memorandum and brief filed, the record in this matter and final decision, that the findings of fact made by the Assistant Secretary were fully supported by competent evidence in the record, that the conclusions of law made by the Assistant Secretary were fully supported by the findings of fact, and that the decision by the Assistant Secretary was fully supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Final Decision of the Assistant Secretary is **CONFIRMED** in every respect.

Entered this the 3rd day of September, 1996.

TAX REVIEW BOARD

Harlan E. Boyles, Chairman
State Treasurer

Hugh A. Wells
Chairman Utilities Commission

Noel L. Allen, member

A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed rule making. The agency must publish a notice of the subject matter for public comment at least 60 days prior to publishing the proposed text of a rule. Publication of a temporary rule serves as a Notice of Rule-making Proceedings and can be found in the Register under the section heading of Temporary Rules. A Rule-making Agenda published by an agency serves as Rule-making Proceedings and can be found in the Register under the section heading of Rule-making Agendas. Statutory reference: G.S. 150B-21.2.

TITLE 2 - DEPARTMENT OF AGRICULTURE

CHAPTER 43 - MARKETS

Notice of Rule-making Proceedings is hereby given by the North Carolina Board of Agriculture - State Marketing Authority in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making:
2 NCAC 43F; 43H; 43L .0200, .0400 - Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 106-22; 106-185; 106-186; 106-187; 106-188; 106-189; 106-189.1; 106-189.2; 106-195; 106-197; 106-245.15; 106-245.16; 106-245.18; 106-245.19; 106-245.21; 106-245.22; 106-530

Statement of the Subject Matter:

2 NCAC 43F - Standards for receptacles; labeling. These rules establish labeling requirements for closed containers of apples and peaches. Proposed change would eliminate the requirement for showing net weight in both pounds and ounces.

2 NCAC 43H - Marketing of shell eggs. These rules establish standards for the labeling and sale of shell eggs. Proposed change would provide for sale of fertile eggs and labeling of organically-produced eggs and free-range hen eggs.

2 NCAC 43L .0200 - Charlotte Regional Farmers Market; gate fees. These rules establish fees for sellers at the farmers market. Proposed change would increase certain fees.

2 NCAC 43L .0400 - Western North Carolina Farmers Market; retail buildings; gate fees; farmers and truckers shed. These rules establish fees for rental of space at the Western North Carolina Farmers Market. Proposed change would increase rental rates.

Reason for Proposed Action:

2 NCAC 43F - To make the rules consistent with the requirements of The Federal Fair Packaging and Labeling Act.

2 NCAC 43H - Current rules do not permit the sale of

fertile eggs or the labeling of eggs as organically produced or free-range.

2 NCAC 43L .0200 - To provide additional revenues to offset operating expenses.

2 NCAC 43L .0400 - To provide additional revenues to offset operating costs.

Comment Procedures: A public hearing on the rule-making proceeding will be held at 10:00 a.m., November 13, 1996, at the James B. Hunt, Jr. Horse Complex at the North Carolina State Fairgrounds. Interested persons may present their comments either orally or in writing at the public hearing. Written comments may also be submitted to David S. McLeod, Secretary of the North Carolina Board of Agriculture, P.O. Box 27647, Raleigh, NC 27611 through December 16, 1996.

CHAPTER 52 - VETERINARY DIVISION

Notice of Rule-making Proceedings is hereby given by the North Carolina Board of Agriculture in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making:
2 NCAC 52B .0200, .0300; 52C .0700 - Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 106-22; 106-307.4; 106-307.5; 106-316.1; 106-317; 106-318; 106-361; 106-389; 106-390; 106-396; 106-400; 106-405.17; 106-539; 106-540; 106-543

Statement of the Subject Matter:

2 NCAC 52B .0200; 52C .0700 - Importation requirements; wild animals. These rules set forth various requirements for importation of animals into North Carolina in order to prevent the spread of disease. Proposed change would make technical changes for clarification and would add new requirements for cervidae (deer, elk, moose, etc.).

2 NCAC 52B .0300 - Brucellosis; calfhood vaccination. These rules set forth requirements for vaccination of calves for brucellosis. Proposed change would change standards for approved vaccine.

Reason for Proposed Action:

2 NCAC 52B .0200; 52C .0700 - To clarify requirements for importation of wild animals generally and to adopt new requirements to prevent the spread of disease from cervidae.
2 NCAC 52B .0300 - To make North Carolina rules consistent with federal rules and to make other technical changes.

Comment Procedures: A public hearing on the rule-making proceeding will be held at 10:00 a.m., November 13, 1996, at the James B. Hunt, Jr. Horse Complex at the North Carolina State Fairgrounds. Interested persons may present their comments either orally or in writing at the public hearing. Written comments may also be submitted to David S. McLeod, Secretary of the North Carolina Board of Agriculture, P.O. Box 27647, Raleigh, NC 27611 through December 16, 1996.

**TITLE 10 - DEPARTMENT OF HUMAN
RESOURCES**

CHAPTER 3 - FACILITY SERVICES

Notice of Rule-making Proceedings is hereby given by the North Carolina Child Day Care Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making:
10 NCAC 3U .0705, .1717

Authority for the rule-making: G.S. 110-91(8); 143B-168.3

Statement of the Subject Matter: Training requirements for child day care administrators, child day care teachers, and child day care aides.

Reason for Proposed Action: To amend the rules to recognize the National Safety Council and other bodies as approved to provide CPR training for child day care providers.

Comment Procedures: Questions or written comments regarding this matter may be directed to Nancy Guy, APA Coordinator, Division of Child Development, 319 Chapanoke Road, P.O. Box 29553, Raleigh, NC 27626-0553, (919) 662-4543.

**CHAPTER 26 - DIVISION OF
MEDICAL ASSISTANCE**

Notice of Rule-making Proceedings is hereby given by the Division of Medical Assistance in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making:
10 NCAC 26H .0101, .0102

Authority for the rule-making: G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c. 479, s.86; 42 CFR 447, Subpart C; 29 CFR 1910, Subpart Z; S.L. 1991, c.689, s.95

Statement of the Subject Matter: Allows nursing facilities to record depreciation and interest related to direct patient care equipment in the annual cost report as direct care costs. The primary purpose of Direct Patient Care Equipment is to enhance the quality, efficiency, or safety of the work of direct patient care personnel.

Reason for Proposed Action: The objective of this amendment is to allow nursing facility providers to procure equipment which uses advanced technology to enhance the efficiency, quality, or safety of the work of direct patient care personnel.

Comment Procedures: Written comments concerning this rule-making action must be submitted by December 16, 1996 to Portia Rochelle, Rule-making Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.

TITLE 12 - DEPARTMENT OF JUSTICE

**CHAPTER 7 - PRIVATE PROTECTIVE
SERVICES**

Notice of Rule-making Proceedings is hereby given by the Private Protective Services Board in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making:
12 NCAC 7D .0204(c), .1106(a)

Authority for the rule-making: G.S. 74C-5

Statement of the Subject Matter: Rule .0204 - The rule currently states that the Board may for good cause consider any experience claimed by an applicant even if the experience claimed was gained while the applicant was not in possession of a valid license, registration, or permit. Rule .1106 - The rule currently states that the Board will consider

any practical experience gained within 10 years of the application date.

Reason for Proposed Action: Rule .0204 - The Board wishes to amend the rule to allow consideration of legally gained experience only. Rule .1106 - As currently written, the rule does not specify that the Board will consider only practical experience that is legally gained. Therefore, an applicant may ask the Board to consider experience that was not legally gained.

Comment Procedures: Written comments concerning this rule-making activity may be submitted within sixty days of this publication to W. A. Hoggard, III, Administrator, N.C. Private Protective Services Board, 3320 Old Garner Road, Raleigh, NC 27626.

CHAPTER 9 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

Notice of Rule-making Proceedings is hereby given by the North Carolina Criminal Justice Education and Training Standards Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 12 NCAC 9A .0103; 9B .0102, .0111, .0206, .0224, .0225, .0409; 9C .0304, .0307, .309, .0601 - 0606

Authority for the rule-making: G.S. 8-50.2; 17C-2; 17C-6; 17C-10; 153A-217

Statement of the Subject Matter: The subject matter of the proposed rule-making proceeding includes: amending the definition of Local Confinement Personnel; adopting a Mandatory Background Investigation Form for criminal justice officers; establishing minimum firearms training requirements for law enforcement officers; amending the minimum instructional hours in three topical areas in the Basic Training Course for Correctional Officers; and, rewriting the Speed Measuring Instrument (Radar, TDS, etc.) rules to facilitate the addition of new S.M.I. equipment (for example, the General Assembly's approval of Laser technology for speed measurement) on the Commission's list of approved Speed Measuring Instruments.

Reason for Proposed Action: The North Carolina Criminal Justice Education and Training Standards Commission has authorized rule-making authority to amend several of its administrative rules in order to better define the minimum employment and training standards that regulate the criminal justice officer profession in the State. Additionally, the

General Assembly transferred regulation of District Confinement Facility Personnel to the N.C. Sheriff's Education and Training Standards Commission, thus necessitating proposed rule changes. Finally, recent technological improvements in Speed Measuring Instruments (Radar, TDS, Laser) has resulted in a pressing need to amend the Commission's SMI rules.

Comment Procedures: Any person interested in this rule-making proceeding may present oral or written comments relevant to the above-stated subject matter for a period of 60 days ending on December 16, 1996. Written comments should be directed to Scott Perry at the Criminal Justice Standards Division which is located in Room 150, Court of Appeals Building, P.O. Drawer 149, Raleigh, North Carolina 27602.

TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

Notice of Rule-making Proceedings is hereby given by the North Carolina Wildlife Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 15A NCAC 10F .0327

Authority for the rule-making: G.S. 75A-3; 75A-15

Statement of the Subject Matter: Proposed No Wake Zone on Lake Tillery, Montgomery County

Reason for Proposed Action: To regulate boat speed in congested area.

Comment Procedures: The record will be open for receipt of written comments from 10/15/96 - 12/16/96. Such written comments must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 36 - BOARD OF NURSING

Notice of Rule-making Proceedings is hereby given by the North Carolina Board of Nursing in accordance with G.S. 150B-21.2. The agency shall subsequently publish

in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making:
21 NCAC 36 .0320

Authority for the rule-making: G.S. 90-171.23(b); 90-171.38

Statement of the Subject Matter: Dismissal of students from nursing programs who present behavior which conflicts with safety essential to nursing practice; or present physical and emotional health problems which do not respond to treatment or counseling within a reasonable period of time and which conflict with safety essential to nursing practice.

Reason for Proposed Action: 21 NCAC 36.0320(d) was revised effective January, 1996. The provision which allowed for immediate dismissal of nursing students who present behavior which conflicts with safety essential to nursing practice was unintentionally omitted. The proposed action is needed to correct the omission.

Comment Procedures: Comments regarding this notice should be directed to: Jean H. Stanley, APA Coordinator, North Carolina Board of Nursing, P.O. Box 2129, Raleigh, NC 27602-2129. Comments must be received in the Board of Nursing Office by 4:30 p.m. on December 16, 1996.

Reason for Proposed Action: These rules are proposed to be amended in order to assist state agencies in the administration of the rules regarding the Workers' Compensation Leave.

Comment Procedures: The record will open for receipt of written comments from October 15, 1996 through December 16, 1996. Such written comments must be delivered or mailed to Ms. Patsy Smith Morgan, Administrator, State Personnel Commission, 116 West Jones Street, Raleigh, NC 27603.

TITLE 25 - DEPARTMENT OF STATE PERSONNEL

CHAPTER 1 - OFFICE OF STATE PERSONNEL

Notice of Rule-making Proceedings is hereby given by the North Carolina State Personnel Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making:
25 NCAC 1E .0705, .0707, .0709

Authority for the rule-making: G.S. 126-4

Statement of the Subject Matter: The purpose of the Workers' Compensation rules is to ensure that employees experiencing work related injuries and illnesses are provided compensation in accordance with the Workers' Compensation Act and to provide consistent application of those rules and regulations. Further, the purpose is to provide swift and certain remedy to the injured employee as well as to ensure a limited and determinate liability to the State.

This Section contains the text of proposed rules. At least 60 days prior to the publication of text, the agency published a Notice of Rule-making Proceedings. The agency must accept comments on the proposed rule for at least 30 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. The required comment period is 60 days for a rule that has a substantial economic impact of at least five million dollars (\$5,000,000). Statutory reference: G.S. 150B-21.2.

TITLE 1 - DEPARTMENT OF ADMINISTRATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Administration intends to amend rules cited as 1 NCAC 39 .0101 and .0201 with changes from the proposed text noticed in the Register, Volume 10, Issue 16A, pages 1672 - 1674.

Proposed Effective Date: January 1, 1997

Reason for Proposed Action: Makes technical and other changes in response to comments received during initial comment period.

Comment Procedures: Written comments may be submitted to R. Glen Peterson, General Counsel, Department of Administration, 116 West Jones Street, Raleigh, NC 27603-8003. These written comments must be received no later than 5:00 p.m., November 15, 1996.

Editor's Note: An agency may not adopt a rule that differs substantially from the text of a proposed rule published in the Register, unless the agency publishes the text of the proposed different rule and accepts comments on the new text.

Fiscal Note: These Rules do not affect the expenditures or revenues of state or local government funds.

CHAPTER 39 - DEPARTMENT OF ADMINISTRATION'S MINIMUM CRITERIA

SECTION .0100 - PURPOSE

.0101 PURPOSE

The purpose of these minimum criteria is to establish threshold levels for minor operations or small routine facility projects in this Rule which no filing of environmental documents under G.S. 113A shall be required. The primary emphases of these minimum criteria are to:

- (1) insure that protection is provided to the environment in the State Government Center and at other properties under the control of the Department of Administration throughout the state;
- (2) insure that environmental impacts are considered prior to approving activities on the state's sensitive areas, defined as those which are delineated or protected under one or more of the following:
 - (a) Wetlands by the U.S. Army Corps of

- Engineers under 33 CFR 328.3 and 40 CFR 230.3;
- (b) National Historic Preservation ~~and Conservation~~ Act of 1966, as amended and National Executive Order 11593 and State Executive Order 16 administered by the North Carolina Department of Cultural Resources;
- (c) Prime Agricultural and Forest Lands identified under P.L. 97-98 and State Executive Order 96;
- ~~(d) National Natural Landmarks as designated under the Historic Site Act at 16 USC 461;~~
- ~~(e) International Biospheric Reserves designated by the United Nations under the UNESCO Act, P.L. 575-2, statutory 712;~~
- (d) (f) State Park Lands designated under G.S. 113-44.9;
- (e) (g) State Game Lands administered under G.S. 113-264 and 306(d);
- (f) (h) State Forest Lands administered under G.S. 113-22 and 29;
- (g) (i) State Nature Preserves and Dedicated Natural Areas administered under G.S. 113A-164.1;
- (h) (j) Primary and Secondary Nurseries designated in accordance with under 15A NCAC 3R .0003, .0003-.0005 and 15A NCAC 10C .0503, and Critical Habitat Areas designated in accordance with 15A NCAC 3I .0001 and 15A NCAC 10I .0001(a)(5);
- (i) (k) State High Quality Outstanding Resource Waters designated in accordance with under 15A NCAC 2B .0216 .0201(d); this includes waters classified as WS-I, WS-II, SA and ORW (Outstanding Resource Waters); by the Environmental Management Commission;
- (j) (l) State Natural and Scenic Rivers designated under G.S. 113A-30;
- (k) (m) North Carolina Coastal Reserves designated under G.S. 113A-129.1;
- (l) (n) State Lakes administered under G.S. 146-3; and
- (m) (o) Lands which contain animal or plant species protected by the Federal Threatened and Endangered Species Act (administered by the U.S. Fish and Wildlife Service), State Endangered and Threatened Wildlife and Wildlife Species of Special Concern

Act (G.S. 113-331 administered by the North Carolina Wildlife Resources Commission), State Plant Protection and Conservation Act (G.S. 106-202.12 administered by the North Carolina Department of Agriculture);

All the laws or rules in this Rule are incorporated by reference and include subsequent amendments. Copies are available at the Department of Environment, Health, and Natural Resources; and

- (3) permit the implementation of the routine operations, maintenance, repair, or construction tasks which the state is required to undertake without undue delay or expense.

Authority G.S. 113A-11.

SECTION .0200 - NON-MAJOR ACTIVITIES

.0201 NON-MAJOR ACTIVITIES

The following list of criteria shall be considered as descriptive of routine operations, small construction projects, and routine maintenance projects which do not require the filing of an Environmental Impact Statement, Environmental Assessment, or a Finding of No Significant Impact:

- (1) Any action which involves relocation of staff members into a site using existing State buildings or leased buildings for which the building occupancy classification is not changed.
- (2) Routine disposal operations of hazardous chemicals, asbestos, or other environmentally sensitive operations for which a written procedure has been established, reviewed by appropriate authority, and determined to be in keeping with state or federal law.
- (3) Routine repairs and housekeeping projects which maintain a facility's original condition and physical features, including re-roofing and minor alterations where in-kind materials and techniques are used. This also encompasses structures 50 years of age and older and for which no separate law, rule, or regulation dictates a formal review and approval process.
- (4) Demolition of or additions, rehabilitation and/or renovations to a structure not listed in the National Register of Historic Places or less than 50 years of age.
- (5) Purchase by the Department of Administration for Department of Administration's use of real estate for which the use of the real estate does not vary from its intended purpose or function at the time of purchase or is consistent with local land use plans.
- (6) The use of chemicals for boiler feedwater treatment, cooling tower water treatment, pesticides, herbicides, cleaning solvents, and other chemical products which may be considered environmen-

tally sensitive, provided the materials are stored and utilized in keeping with the applicable Material Safety Data Sheet (MSDS).

- (7) The handling of asbestos incident to a repair, maintenance, or minor construction project provided that the asbestos material is removed, stored, disposed of, and handled in accordance with published Department of Administration's procedures for processing asbestos.
- (8) New construction involving all of the following:
 - (a) A footprint of less ~~Less than~~ 10,000 square feet;
 - ~~(b) Less than two hundred thousand dollars (\$200,000) cost;~~
 - ~~(b) (e) Less than one acre of previously undisturbed ground unless the site is~~ A location that is not a National Register archaeological site; and
 - ~~(c) (d)~~ The use of the structure does not involve the handling and/or the storage of hazardous materials.
- (9) Routine grounds maintenance and landscaping.
- (10) Routine repair of existing parking lots.
- (11) Installation of outdoor sculpture(s) or exhibits.
- (12) Granting of leases, easements, or permits authorizing use of public land for any of the following:
 - (a) Installation of aerial and sub-aqueous pipes or pipelines for the transportation of potable water, and any cable line or line for the transmission of electrical energy, not requiring a certificate of environmental compatibility and public convenience from the North Carolina Utilities Commission, telephone or telegraph messages, and radio and television communications.
 - (b) Communication towers not located in sensitive areas as defined in Rule .0101(2) of this Chapter.
 - (c) Construction of a road in accordance with accepted design practices and in compliance with North Carolina Department of Transportation standards and specifications, involving less than 25 cumulative acres of ground surface not located in sensitive areas.
 - (d) Filling below the mean high water mark when such filling has been approved by the U.S. Army Corps of Engineers or the North Carolina Division of Coastal Management.
 - (e) Sewer line installations not exceeding the minimum criteria of the permitting agency and not located in sensitive areas.
 - (f) Ground water withdrawals not exceeding the minimum criteria of the permitting agency and not located in sensitive areas.
 - (g) Where the proposed ~~private~~ use of the

public land does not exceed the minimum criteria established by the agency recommending the lease, easement, or permit.

- (h) Piers and boat docks on all State Lakes when constructed in accordance with 15A NCAC 12C .0300.
- (i) Structures or piers and boat docks involving less than 11 slips.
- (j) Granting of voluntary easements for structures existing as of October 1, 1995, in accordance with G.S. 146-12(b).
- (13) Exchange or purchase of land where no agreement exists for the private land to be developed for use in any way that results in a change in the natural cover or topography prior to the exchange or purchase.
- (14) Timber harvest in accordance with the National Forest Service or the North Carolina Division of Forest Resources Management's Plans and recognized best management practices.

Authority G.S. 113A-11.

TITLE 4 - DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Commerce, Division of Community Assistance intends to adopt 4 NCAC 19L .0706 - .0708, .1801 - 1805, and amend rules cited as 4 NCAC 19L .0401, .0403 - .0404, .0407, .0501 - .0502, .0505, .0802, .0901, .0906 - .0907, .0911, .1002, .1004, .1009, .1011, .1301 - .1303, .1701 - .1703. Notice of Rule-making Proceedings was published in the Register on August 1, 1996.

Proposed Effective Date: January 1, 1997

A Public Hearing will be conducted at 1:00 p.m. on November 4, 1996 at 1307 Glenwood Avenue, Suite 250, Raleigh, NC 27605.

Reason for Proposed Action: The proposed action is necessary to enable the Division of Community Assistance to implement the Small Cities Community Development Block Grant Program in accordance with U.S. Department of Housing and Urban Development (HUD) regulations, the HUD-approved CDBG Action Plan for 1996, and the CDBG Block Grant Plan approved by the General Assembly in July 1996, and the CDBG Loan Guarantee program authorized by the General Assembly in House Bill 361, as amended in 1996.

Comment Procedures: Oral and written comments are due by November 20, 1996, to William A. McNeil, Division of Community Assistance, P.O. Box 12600, Raleigh, NC 27605, (919) 733-2850.

Fiscal Note: These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 19 - DIVISION OF COMMUNITY ASSISTANCE

SUBCHAPTER 19L - NORTH CAROLINA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SECTION .0400 - DISTRIBUTION OF FUNDS

.0401 GENERAL

(a) The Division shall designate specific due dates or open periods of time for submission of grant applications under each category. ~~category except for Housing Development and Urgent Needs. Housing Development and Urgent Needs applications may be submitted at any time, but other grant application submission dates will be announced by the Division.~~

(b) In cases where the Division makes a procedural error in the application selection process that, when corrected, would result in awarding a score sufficient to warrant a grant award, the Division may compensate that applicant at the earliest time sufficient funds become available or with a grant in the next funding cycle.

(c) Applicants can apply for funding under the grant categories of Community Revitalization, Housing Development, Entrepreneurial Empowerment Community Empowerment, Demonstration and Urgent Needs. Applicants shall not apply for Contingency funding. Contingency awards will may be made to eligible applicants in Community Revitalization- any category.

(d) Procedure for distribution of funds are detailed in the Annual CDBG Action Plan submitted to HUD.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.483.

.0403 SIZE AND USE OF GRANTS MADE TO RECIPIENTS

(a) There is no minimum grant amount which applicants may request or be awarded. Grant awards made to any one recipient shall not exceed the following amount in each grant category: Community Revitalization: Concentrated Needs Need and Infrastructure subcategories - eight hundred fifty thousand dollars (\$850,000) subcategory - seven hundred fifty thousand dollars (\$750,000), Infrastructure subcategory - eight hundred fifty thousand dollars (\$850,000), and Scattered Site subcategory - five four hundred thousand dollars (\$500,000); (\$400,000) Housing Development - two hundred fifty thousand dollars (\$250,000) or funds available; Urgent Needs - six hundred thousand dollars (\$600,000); Contingency - six hundred thousand dollars (\$600,000); Entrepreneurial Community

Empowerment implementation grant - ~~one million dollars (\$1,000,000) and Entrepreneurial Empowerment planning grant twenty thousand dollars (\$20,000); seven hundred fifty thousand dollars (\$750,000).~~ Applicants shall not have a project or combination of projects under active consideration for funding which exceeds one million two hundred fifty thousand dollars (\$1,250,000), except for Urgent Needs ~~projects~~ projects and one demonstration project. Applicants in the Community Revitalization category shall choose to apply for either a concentrated needs award, or an infrastructure award, or a scattered site award, but no more than one from the same HUD allocation.

(b) No local government may receive more than a total of one million two hundred fifty thousand dollars (\$1,250,000) in CDBG funds in the period that the state distributes its annual HUD allocation of CDBG funds; except that local governments may also receive up to six hundred thousand dollars (\$600,000) for a project that addresses Urgent Needs and funds for one demonstration project in addition to other grants awarded during the same time period.

(c) Community Revitalization basic category applicants may spend ~~no more than 15 percent~~ a portion of their total grant amount to finance local option activities. Up to 15 percent may be spent ~~Local option activities are on~~ eligible activities which do not need to be directly related to proposed projects except in the infrastructure ~~subcategory~~ subcategory; however, job Alternatively, up to 25 percent may be spent on eligible activities that contribute to comprehensive development of the main project area in a Concentrated Needs grant. Job creation activities are not eligible local option ~~activities; activities unless they are part of the 25 percent alternative.~~ Local option activities will not be competitively rated by the Division, but may be limited to specific eligible activities. Each local option project must show that:

- (1) At least fifty-one percent of the CDBG funds proposed for each activity will benefit low- and moderate-income persons, except that CDBG funds may be used for acquisition, disposition, or clearance of vacant units to address the national objective of prevention or elimination of slums or blight; and
- (2) CDBG funds proposed for each activity will address the national objective of benefiting low- and moderate-income persons, or aid in the prevention or elimination of slums or blight.

(d) The Division may review grant requests to determine the reasonableness and appropriateness of all proposed administrative and planning costs. Notwithstanding Rule .0910 of this Subchapter, grantees may not increase their approved planning and administrative budgets without prior Division approval. In no case, may applicants budget and expend more than 18 percent of the sum of funds requested and program income for administrative and planning activities for each ~~project~~ project, except that demonstration funds may be awarded for projects limited to planning

activities only in which case all funds will be spent for planning and administration.

(e) Applicants may spend CDBG funds in those areas in which the applicant has the legal authority to undertake project activities.

(f) Grants to specific recipients will be provided in amounts commensurate with the size of the applicant's program. In determining appropriate grant amounts for each applicant, the Division may consider an applicant's need, proposed activities, all proposed administrative and planning costs, and ability to carry out the proposed activities.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.483; 42 U.S.C. 5301.

.0404 GRANT CATEGORY ALLOCATION

Each program year, funds will be reserved for each grant category. Funds awarded to local governments will be reserved for each grant category in accordance with the ~~Program Design Statement annual Action Plan that is the part of the North Carolina Consolidated Plan~~ as approved annually by HUD. From time to time, the Division may set aside ~~between one and up to~~ up to two percent for demonstration grants. The remaining funds will be distributed by the Division to Community Revitalization grant ~~applications~~ applications unless otherwise specified in the annual Action Plan.

Authority G.S. 143B-10; 143B-431; 42 USC 5304; 24 C.F.R. 570.482; 24 C.F.R. 570.483.

.0407 GENERAL APPLICATION REQUIREMENTS

(a) Local governments shall submit applications as prescribed by this Rule in order to be considered for funding. Selection of applications for funding will be based primarily on information contained in the application; thus applications must contain sufficient information for the Division to rate them against the selection criteria. In addition, the following may be considered: information from any source which regards the eligibility of the applicant or application; the legality or feasibility of proposed activities; the applicant's compliance with application procedures specified in this Subchapter or the accuracy of the information presented in the application; evaluation of proposed projects by on-site review; and category-specific information described in Sections .0500, .0700, .0800, .1200, ~~and .1300~~, .1300, and .1700 of this Subchapter. All applicants shall address their projects to one of the following grant categories: Community Revitalization (either concentrated needs, infrastructure or scattered site), Housing Development, Urgent Needs, Demonstration, or ~~Entrepreneurial Community Empowerment~~. Applicants may apply in more than one grant category, providing the total grant application and award does not exceed the maximum limits described in Paragraphs (a) and (b) of Rule .0403 of this Section. Applicants shall submit an application that describes each

project in sufficient detail to be adequately rated.

(b) Applications must be received by the Division's administrative offices in Raleigh before 5:00 p.m. on the submission date or sent by mail and postmarked on the submission date.

(c) Applicants must provide citizens with adequate opportunity for meaningful involvement in the development of Community Development Block Grant applications. Specific citizen participation guidelines are described further in Rule .1002 of this Subchapter. If the Division is aware of an applicant's failure to meet these citizen participation requirements, the Division may not rate the application.

(d) The Division may submit all CDBG applications and environmental review records as required by the National Environmental Policy Act and the State Environmental Policy Act to the State Clearinghouse of the Department of Administration for review and comments. The Division may require each applicant to submit a written description of how the applicant proposes to address each comment received from the State Clearinghouse.

(e) The applicant shall certify to the Division that it will comply with all applicable federal and state laws, regulations, rules and Executive Orders. Copies of these federal and state requirements are available for public inspection from the Division.

(f) Applicants must comply with the Housing and Community Development Act of 1974 as amended, all applicable federal and state laws, regulations, rules, and Executive Orders.

(g) Application requirements described in this Rule .0407 do not apply to demonstration grants and Urgent Needs grants, except for Paragraphs (a), (d), (f) and (g).

(h) For multi-family rental housing activities, the applicant must state in the application the standards it has adopted for determining affordable rents for such activities.

(i) Applicants that receive CDBG funding for projects may charge the cost of application preparation to prior CDBG programs or to the current program provided that procurement procedures consistent with 24 CFR 85.36 are followed. No more than three thousand five hundred dollars (\$3,500) may be charged to the CDBG program for application preparation.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(a); 24 C.F.R. 570.483.

SECTION .0500 - COMMUNITY REVITALIZATION PROJECTS

.0501 DESCRIPTION

(a) The Community Revitalization category includes activities in which a majority of funds is directed towards improving, preserving or developing residential areas. All eligible CDBG activities may be undertaken for the purpose of community revitalization.

(1) Applications for funding may involve single or multiple activities, addressing one or more needs

in the area except for infrastructure and scattered site subcategories which addresses one need.

(2) All community revitalization activities, except for scattered site activities, must be carried out within defined project areas.

(3) Community Revitalization funds are distributed to eligible units of local government on a competitive basis. Community Revitalization projects will be evaluated against other Community Revitalization project proposals.

(b) The Community Revitalization category includes a subcategory for scattered site housing activities which are directed towards one hundred per cent low and moderate income benefit or the prevention or elimination of slums or blight. Scattered site projects are limited to housing rehabilitation, acquisition, disposition, clearance, and relocation activities.

(1) Scattered site activities may be carried out in any location throughout the applicant's jurisdiction and need not be carried out in an area of concentrated need.

(2) ~~No Up to 5 percent of the total project cost may be contributed from local or non-local funds are required or expected to be contributed to in~~ scattered site housing rehabilitation projects.

(3) Scattered site funds are distributed to eligible units of local government on a competitive basis, and projects will be evaluated against other scattered site project proposals.

(c) The Community Revitalization category includes a subcategory for public infrastructure projects within a definable project area. Projects will be evaluated against other infrastructure project proposals.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5301; 24 C.F.R. 570.483.

.0502 ELIGIBILITY REQUIREMENTS

(a) Applications for concentrated needs subcategory funds must show that:

(1) At least 51 percent of the CDBG funds proposed for each project will benefit low- and moderate-income persons, except that CDBG funds proposed for local option activities may be used for acquisition, disposition, or clearance of vacant units to address the national objective of prevention or elimination of slums or blight; and

(2) CDBG funds proposed for each activity will meet a national objective as specified in HUD regulations previously incorporated by reference, except that funds shall not be used to meet the national objective of urgent need which is covered by Rule .0801 of this Subchapter.

Applications that do not meet these eligibility requirements will not be rated or funded. In designing projects which meet these requirements, applicants must appropriately ensure that activities do not benefit moderate-income

persons to the exclusion of low-income persons.

(b) Applicants for scattered site subcategory funds must show that:

- (1) Rehabilitation activities of occupied and vacant units must benefit 100 percent low and moderate income persons; and
- (2) CDBG funds proposed for ~~rehabilitation~~ acquisition, clearance, and disposition of vacant units will address the national objective of preventing or eliminating slums or blight.

(c) Applicants shall have the capacity to administer a CDBG program. The Division may examine the following areas to determine capacity:

- (1) audit and monitoring findings on previously funded Community Development Block Grant programs, and the applicant's fiscal accountability as demonstrated in other state or federal programs or local government financial reports; and
- (2) the rate of expenditure of funds and accomplishments in previously funded CDBG programs.

Applicants that show a lack of capacity will not be rated or funded.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5301; 24 C.F.R. 570.483.

.0505 SELECTION CRITERIA

Projects will be evaluated and rated in accordance with the annual ~~statement of program design~~ Action Plan in the North Carolina Consolidated Plan as approved by HUD. Rating factors are:

- (1) benefit to low and moderate income persons,
- (2) project severity of need,
- (3) project treatment of need,
- (4) appropriateness and feasibility of proposed project activities, and
- (5) local commitment of funds ~~or~~ and community efforts.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(a)(1); 24 C.F.R. 570.483.

SECTION .0700 - DEMONSTRATION PROJECTS

.0706 DEFINITION

Demonstration grants are provided to assist local governments to develop innovative strategies for addressing specific community development needs and priorities.

Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5301; 24 C.F.R. 570.489.

.0707 ELIGIBILITY REQUIREMENTS

(a) Applications for Demonstration Projects must show that:

- (1) the proposed project meets a national objective in accordance with 24 CFR 570.483; and
- (2) the proposed project meets the specific purpose

and priorities announced by the Division for the demonstration funds.

Applicants that do not meet these eligibility requirements will not be considered for funding.

(b) Applicants shall have the capacity to administer a CDBG program. The Division may examine the following areas to determine capacity:

- (1) audit and monitoring findings on previously funded Community Development Block Grant programs, and the applicant's fiscal accountability as demonstrated in other state and federal programs or local government financial reports; and
- (2) the rate of expenditure of funds and accomplishments in previously funded CDBG programs.

Applicants that show a lack of capacity will not be considered for funding.

Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5301; 24 C.F.R. 570.489.

.0708 SELECTION CRITERIA

Selection criteria will be announced by the Division at least 30 days prior to accepting applications for any demonstration grant.

Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5301; 24 C.F.R. 570.489.

SECTION .0800 - URGENT NEEDS/CONTINGENCY PROJECTS

.0802 ELIGIBILITY REQUIREMENTS

Urgent Needs grant applicants must certify to all ~~four~~ three of the following eligibility requirements:

- (1) the need addressed by the application must have arisen during the preceding 18-month period and represent an imminent threat to public health or safety;
- (2) the need addressed by the application must represent a unique and unusual circumstance that does not occur frequently in a number of communities in the state;
- (3) the applicant does not have sufficient local resources, and state or federal resources are not available to alleviate the urgent ~~need; need, and~~ need;
- ~~(4) at least 51 percent of the CDBG funds proposed for the project must benefit low and moderate income persons.~~

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(b)(3); 24 C.F.R. 570.483.

SECTION .0900 - GRANT ADMINISTRATION

.0901 GRANT AGREEMENT

(a) Upon approval of the application by the Division, a

written grant agreement will be executed between the recipient and the Division. These Rules, the approved application, and any subsequent amendments to the approved application shall become a part of the grant agreement.

(b) The grant agreement in its original form and all modifications thereto shall be kept on file in the office of the recipient in accordance with Rule .0911 of this Section.

(c) The Division may condition the grant agreement until the recipient demonstrates compliance with all applicable laws and regulations. In the case of Housing Development and ~~Entrepreneurial~~ Community Empowerment projects the grant agreement may be conditioned until legally binding commitments have been obtained from all participating entities.

(d) Neither CDBG nor non-CDBG funds involved in a project may be obligated, nor may any conditioned project activities begin until the Division releases in writing any and all applicable conditions on the project. Recipients may incur costs prior to release of conditions with prior Division approval in accordance with Rule .0908 of this Section.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.483.

.0906 FINANCIAL MANAGEMENT SYSTEMS

Recipient financial management systems shall provide for accurate, current and complete disclosure of the financial results of each grant program in accordance with fiscal control and reporting requirements set forth in G.S. 159, Article III, the Local Government Budget and Fiscal Control Act. Recipients shall meet the following requirements:

- (1) All grant funds shall be expended in accordance with a budget ordinance or project ordinance adopted under G.S. 159-8 and G.S. 159-13.2 respectively;
- (2) A recipient may deposit or invest all or part of the cash balance of any grant fund; however, all interest earned shall be returned to the Department in accordance with Rule .0907(c) of this Section;
- (3) Investment deposits shall be secured as provided in G.S. 159-31(b);
- (4) The recipient shall designate as its official depositories one or more banks or trust companies in the State in accordance with G.S. 159-31(a);
- (5) All budgetary accounting for appropriations of grant funds shall be in accordance with the procedures for incurring obligations and disbursements as set forth in G.S. 159-28;
- (6) Each recipient shall establish an accounting system in accordance with G.S. 159-26;
- (7) The recipient's finance officer, and each officer, employee, or agent who handles or has in his custody more than one hundred dollars (\$100.00) of grant funds at any time, or who handles or has access to the recipient's inventories, shall be bonded in accordance with G.S. 159-29;
- (8) Each recipient shall maintain records that identify

adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to federal awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

(9) A system for procedures for procurement and property management shall be provided in accordance with Rule .0908 and Rule .0909 of this Section;

- (10) All cash receipts must be deposited with, or to the credit of, the finance officer. This includes program revenues, reimbursements of travel, vendor payments or other items previously recorded as expenditures, and all other grant monies from the Department;
- (11) Recipients must develop a systematic method to assure timely and appropriate resolution of audit findings and recommendations;
- (12) Recipients shall require subgrantees to adopt the standards set forth in this Rule;
- (13) Recipients shall comply with the Office of Management and Budget Circular A-87, entitled Cost Principles for State and Local government. In applying OMB A-87 the term "federal agency" shall mean the Department;
- (14) Recipients shall record the receipt and expenditure of project revenues from taxes, special assessments, evies, fines, etc., in accordance with generally accepted accounting principles;
- (15) Subrecipients shall comply with the Office of Management and Budget Circular A-110, entitled Uniform Administrative Requirements for Grants and other Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

Authority G.S. 14-234; 143B-10; 143B-431; 24 C.F.R. 570.489; 24 C.F.R. 570.496; 42 U.S.C.A. 5304(b),(d),(e).

.0907 PROGRAM INCOME

(a) Definition. Program Income is defined as gross income earned by the recipient from grant supported activities. Such earnings may include, but not be limited to, sale of property, interest received from a loan program, and the return of sales taxes on purchases made during the program. Receipts derived from the operation of a public work or facility, the construction of which was assisted by this program, do not constitute program income. Income generated under the Development Loan Fund program, including loan repayments, fees, lease payments does not constitute program income.

(b) Unless the grant agreement provides otherwise, recipients shall have no obligation to the Department with respect to royalties received as a result of copyrights or patents produced under the grant or other agreement. Recipients must however, follow the procedures set forth in Rule .0909 PROPERTY MANAGEMENT STANDARDS.

(c) All interest earned on grant funds prior to distribution shall be returned to the Department, except recipients may keep one hundred dollars (\$100.00) per year for administrative expenses in accordance with 24 CFR 570.489(c)(2).

(d) Recipients shall record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as a part of grant project transactions when such revenues are specifically earmarked for a grant project in accordance with the grant agreement.

(e) Unless otherwise required, program income generated by a pre-1986 grant may be retained by the recipient. Program income is identified by the grant year in which the activities which generated the program income were funded. Pre-1986 program income shall be added to funds committed to a current project and used for activities approved in the project's application. Pre-1986 program income shall be expended prior to requesting additional funds from the Department or shall be used in future CDBG projects.

(f) Program Income generated by grants made in 1986 or afterwards shall be returned to the Department except when:

- (1) the recipient shall propose at the time of application or at the time the program income is anticipated, a use or uses for the projected program income, and
- (2) the Department determines that, at the time of the proposal, the use of the projected program income meets federal requirements prohibiting the state from recapturing the program income; or
- (3) the recipient, designated at the time of the preliminary grant award as a "severely distressed county" pursuant to G.S. 105-130.40(c), or a city in such a county, wishes to retain the program income to establish a local economic development revolving loan fund. Any activities that are eligible under Title I of the federal Housing and Community Development Act of 1974, as amended, and that meet at least one of the three national objectives of the Housing and Community Development Act may be undertaken. If the designation, pursuant to G.S. 105-130.40(c), as a "severely distressed county" is removed from a county, projects having received at least a preliminary grant award prior to the removal of the designation may continue to retain program income resulting from that grant as provided in this subsection. Provisions of 4 NCAC 19L .0913 apply at the time of closeout; or
- (4) the program income is generated from an Entrepreneurial Empowerment project, and the Department has approved the plan for re-use of program income.

(g) Income after closeout and not subject to Rule .0907(e) and (f) of this Subchapter.

- (1) Except as may be otherwise provided under the terms of the grant agreement or any closeout agreement, program income of ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars

(\$25,000) or more received annually subsequent to the CDBG Program closeout shall be used for any eligible activity pursuant to Rule .0301 of this Subchapter. Recipients must receive Division approval in writing prior to obligation of program income under this Paragraph to determine if the proposed use is plainly appropriate to meeting the recipient's needs and objectives. When income received is less than ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) annually, the recipient may spend the funds at the end of the 12 month period according to its own needs; and

- (2) Accurate records shall be kept on all program income and reported annually to the Division when the annual amount exceeds ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) and to determine when the ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) threshold is exceeded subsequent to grant closeout.

(h) Program income generated under the Development Loan Fund program, including loan repayments, fees, lease payments shall meet all the requirements outlined in 24 CFR 570.489(e) and the contract between the unit of local government and the Department of Housing and Urban Development.

Authority G.S. 143B-431; 153A-376; 160A-456; 24 C.F.R. 570.489(e).

.0911 RECORDKEEPING

(a) The Secretary of the Department of Commerce, the Secretary of the Department of Housing and Urban Development, or any of their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other papers or property of recipients or their subgrantees and contractors pertaining to funds provided under this Subchapter for the purpose of making surveys, audits, examinations, excerpts and transcripts.

(b) All Community Development Program records that are public under G.S. 132 shall be made accessible to interested individuals and groups during normal working ~~hours~~ hours, and shall be maintained at all times at the recipient's local government office, unless the recipient is authorized in writing by the Division to keep the records elsewhere.

(c) Financial records, supporting documents and all other reports and records required under this Subchapter, and all other records pertinent to the Community Development Program shall be retained by the recipient for a period of three years from the date of the closeout of the program, except as follows:

- (1) Records that are the subject of audit findings shall be retained for three years or until such audit findings have been resolved, whichever is later;
- (2) Records for nonexpendable property which was

- acquired with Federal grant funds shall be retained for three years after its final disposition;
- (3) Records for any displaced person shall be retained for three years after he/she has received final payment;
 - (4) Records pertaining to each real property acquisition shall be retained for three years after settlement of the acquisition, or until disposition of the applicable relocation records in accordance with Subparagraph (3) of this Section, whichever is later; and
 - (5) If a litigation, claim or audit is started before the expiration of the three year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(d) All records shall be sufficient to determine compliance with the requirements and primary objectives of the Community Development Block Grant Program and all other applicable laws and regulations. All accounting records shall be supported by source documentation and shall be in compliance with Rule .0906 of this Section.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(d)(2),(e); 24 C.F.R. 570.490.

SECTION .1000 - COMPLIANCE REQUIREMENTS

.1002 CITIZEN PARTICIPATION

(a) Each applicant and recipient shall provide citizens with an adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of the program. Each applicant and recipient shall provide adequate information to citizens, hold public hearings, provide for timely responses to citizens' complaints, and certify that it is following a detailed Citizen Participation Plan as in (b) through (h) of this Rule. All public hearings shall be held by the governing board of the applicant or recipient.

(b) Citizen participation in the application process.

(1) Each applicant for CDBG funds shall:

- (A) Solicit and respond in a timely manner to views and proposals of citizens, particularly low- and moderate-income persons, members of minority groups, and residents of blighted areas where activities are proposed. Applicants shall respond in writing to written citizen comments. Responses shall be made within ten calendar days of receipt of the citizen comment.
- (B) Provide technical assistance to facilitate citizen participation, where requested. The technical assistance shall be provided to groups representative of persons of low- and moderate-income that request such assistance in developing proposals. The level and type shall be determined by the

applicant.

- (C) Provide adequate notices of public hearings in a timely manner to all citizens and in such a way as to make them understandable to non-English speaking persons. Hearings must be held at times and locations convenient to potential or actual beneficiaries and with accommodations for the handicapped. A notice of the public hearing shall be published at least once in the nonlegal section of a newspaper having general circulation in the area. The notice shall be published not less than ten days nor more than 25 days before the date fixed for the hearing. The notice of public hearing to obtain citizens' views after the application has been prepared, but prior to the submission of the application to the Division, shall contain a description of the proposed project(s) including the proposed project location, activities to be carried out, and the total costs of activities.
 - (D) Schedule hearings to obtain citizens' views and to respond to citizen proposals at times and locations which permit broad participation, particularly by low- and moderate-income persons, members of minority groups, handicapped persons, and residents of blighted neighborhoods and project areas.
 - (E) Conduct one public hearing during the planning process to allow citizens the opportunity to express views and proposals prior to formulation of the application, except that applicants in the Urgent Needs category are exempt from holding this public hearing.
 - (F) Conduct one public hearing after the application has been prepared but prior to submission of the application to the Division.
- (2) Submitting objections to the Division.
- (A) Persons wishing to object to the approval of an application by the Division shall submit to the Division their objections in writing. The Division will consider objections made only on the following grounds:
 - (i) The applicant's description of the needs and objectives is plainly inconsistent with available facts and data,
 - (ii) The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant, and
 - (iii) The application does not comply with the requirements of this Subchapter or other applicable laws.
 - (B) All objections shall include an identification

of the requirements not met. In the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with significant, generally available facts and data, the objection shall include the facts and data upon which the objection is based.

(c) Citizen Participation Plan. Recipients shall develop and adopt, by resolution of their governing board, a written citizen participation plan developed in accordance with all provisions of this Rule and which:

- (1) provides for and encourages citizen participation with particular emphasis on participation by persons of low- and moderate-income who are residents of slum and blight areas and of areas in which CDBG funds are proposed to be used;
- (2) provides citizens with reasonable and timely access to local meetings, information, and records relating to the recipient's proposed and actual use of funds;
- (3) provides for technical assistance to groups representative of persons of low- and moderate-income that request such assistance in accordance with Part (b)(1)(B) of this Rule;
- (4) provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program in accordance with Paragraphs (b), (f), and (g) of this Rule;
- (5) provides a procedure for developing timely written responses to written complaints and grievances within ten calendar days of receipt of the complaint. The procedure shall include all provisions of Paragraph (d) of this Rule; and
- (6) identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

(d) The recipient shall develop and adopt a written complaint procedure to respond to citizen complaints involving the CDBG program. The complaint procedure shall be applicable through the life of the grant and available to the general public. It shall specify that the recipient will respond in writing to written citizen complaints within ten calendar days of receipt of the complaint. The procedure shall include a phone number for further information or clarification on the complaint procedure and shall identify any local procedures or appeals process that would normally be used by the recipient to address citizen complaints. The complaint procedure shall also state that if a citizen lodging a complaint is dissatisfied with the local response, then that person may direct the complaint to the North Carolina Division of Community Assistance.

(e) Citizen participation during program implementation. Citizens shall have the opportunity to comment on the implementation of a Community Development Program

throughout the term of the program. Recipients shall solicit and respond to the views and proposals of citizens in the same manner as in Part (b)(1)(A) of this Rule.

(f) Citizen participation in the program amendment process.

(1) Recipient procedures.

(A) Recipients proposing amendments which require prior Division approval in accordance with Rule .0910 of this Subchapter will be required to conduct one public hearing prior to submission of the amendment to the Division in the same manner as in Part (b)(1)(C) of this Rule.

(B) Each recipient shall respond to citizen objections and comments in the same manner as in Part (b)(1)(A) of this Rule.

(2) Submitting Objections to the Division.

(A) Persons wishing to object to the approval of an amendment by the Division shall make such objection in writing. The Division will consider objections made only on the following grounds:

- (i) The recipient's description of needs and objectives is plainly inconsistent with available facts and data,
- (ii) The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the recipient, and
- (iii) The amendment does not comply with the requirements of this Section or other applicable laws and regulations.

(B) All objections shall include an identification of the requirements not met. In the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with significant, generally available facts and data, the objection shall include the facts and data upon which the objection is based.

(g) Citizen participation in the program closeout process.

(1) Recipients shall conduct one public hearing to assess program performance during the grant closeout process and prior to the actual closeout of the grant in the same manner as in Part (b)(1)(C) of this Rule.

(2) Recipients shall continue to solicit and respond to citizen comment in the same manner as in Part (b)(1)(A) of this Rule until such time as the grant program is closed.

(h) Persons may submit written comments to the Division at any time concerning the applicant's or recipient's failure to comply with the requirements contained in this Subchapter.

(i) All records of public hearings, citizens' comments, responses to comments and other relevant documents and

papers shall be kept in accordance with Rule .0911 of this Subchapter. All program records shall be accessible to citizens in accordance with Rule .0911(b) of this Subchapter.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(a)(2); 24 C.F.R. 570.486.

.1004 ENVIRONMENTAL REVIEW

Applicants and recipients shall comply with the policies of the National Environmental Policy Act of 1969 and all other applicable provisions of Federal and State law which further the purposes of such act (as specified in 24 C.F.R. Part 58). This Subchapter incorporates by reference 24 CFR Part 58, including subsequent amendments and editions. Copies of this federal regulation are available for public inspection from the Division of Community Assistance. Single copies are available from this Division in Raleigh, North Carolina, for one dollar (\$1.00) each.

(1) Applicants and recipients shall assume the responsibilities for environmental review, decision-making, and other actions which would otherwise apply to the Secretary, under NEPA and other provisions of law which further the purposes of NEPA in accordance with section 104(f)(4) of Title I of the Housing and Community Development Act of 1974, as amended and the implementing regulations at 24 C.F.R. Part 58.

(2) Applicants and recipients shall meet the requirements of the following Federal laws and regulations:

- (a) The National Environmental Policy Act of 1969 ("NEPA", 42 U.S.C. 4321 et seq., P.L. 91-190) which establishes national policy, goals, and procedures for protecting, restoring and enhancing environmental quality;
- (b) Environmental Review Procedures for Title I Community Development Block Grant Programs, (24 C.F.R. Part 58), which sets forth the procedures for carrying out the environmental responsibilities under NEPA;
- (c) Executive Order 11988, Floodplain Management, May 24, 1977 (42 F.R. 26951 et seq.);
- (d) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 F.R. 26961 et seq.);
- (e) The Coastal Zone Management Act of 1972, (16 U.S.C. 1451 et seq.), as amended;
- (f) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349), as amended, particularly concerning sole source aquifers;
- (g) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended;
- (h) The Wild and Scenic Rivers Act of 1968

- (16 U.S.C. 1271 et seq.), as amended;
- (i) The Clean Air Act (42 U.S.C. 7401 et seq.);
- (j) The Fish and Wildlife Coordination Act of 1958 as amended, (16 U.S.C. 661 et seq.);
- (k) The Federal Water Pollution Control Act (P.L. 92-500);
- (l) HUD environmental criteria and standards (24 C.F.R. Part 51), and the Council on Environmental Quality Standards at 40 C.F.R. Part 1500-1508;
- (m) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended;
- (n) Procedures for the Protection of Historic and Cultural Properties, 36 CFR 800;
- (o) Executive Order 11593, Protection and Enhancement of the Cultural Environment. May 13, 1971 (36 F.R. 8921 et seq.);
- (p) The Reservoir Salvage Act of 1960 (16 U.S.C. 469 et seq.); as amended by the Archaeological and Historic Preservation Act of 1974; and
- (q) The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), as amended.

~~(3) Applicants and recipients shall submit adequate information in a form prescribed by the Division on the environmental impact of each project so that the Division can determine project compliance with the requirements of the North Carolina Environmental Policy Act of 1971 (SEPA) (G.S. 113A Article 1). A determination by the Division that the project complies with the requirements of SEPA will be made before the Department will release funds to the recipient.~~

~~(4)(3)~~ The applicant and recipient shall meet the requirements of the following State laws and rules where they are applicable to the provisions of this Subchapter:

- (a) Chapter 113A of the General Statutes of North Carolina, entitled Pollution Control and Environment;
- (b) G.S. 143-215.108 which designates the Environmental Management Commission as the issuing authority for air quality permits;
- (c) G.S. 143-215.1 which governs water pollution permits and designates the Environmental Management Commission as the issuing authority;
- (d) G.S. 121-12, Protection of Properties on the National Register, which requires consideration of project impact on any property listed in the National Register; and
- (e) G.S. 70-1 through 70-3, Indian Antiquities laws, which urges private landowners to refrain from excavation and other actions leading to the destruction of Indian archaeological sites on their property. It also

requires local governments to report the discovery of artifacts and refrain from further excavation or construction when excavating or constructing on public lands.

- (5)(4) It is the responsibility of the recipient to obtain all air pollution and water pollution permits for a CDBG program pursuant to Subparagraph (4) of this Rule.
- (6)(5) All records and data shall be maintained pursuant to Rule .0911 of this Subchapter.

Authority G.S. 143-215.1; 143-215.108; 143B-10; 143B-431; 24 C.F.R. Part 58; 24 C.F.R. 570.487; 42 U.S.C.A. 4321 through 4370; 42 U.S.C.A. 5304(b)(4).

.1009 HOUSING REHABILITATION

(a) Grant assistance may be used for housing rehabilitation activities eligible under Rule .0301 of this Subchapter.

(b) Housing shall be rehabilitated at least to Section 8 Housing Quality Standards, as defined in 24 C.F.R. ~~882.109~~ 882.109 and further referred by N.C. Housing Rehabilitation Standards as established by N. C. Division of Community Assistance.

(c) Replacement construction and construction elements that are exposed during rehabilitation, shall be done in compliance with the North Carolina State Building Code, Volumes I, IB, II, III and IV.

(d) Section 8 Housing Quality Standards shall not be applicable when work is funded under Local Option Activities as described in Rule .0403(c) of this Subchapter.

(e) Housing rehabilitation activities must comply with the following standards required under this Subchapter:

- (1) ~~Architectural barriers (Rule .1007);~~
- (2)(1) Lead-based paint (Rule .1011); and
- (3)(2) Equal opportunity (Rule .1001).

(f) The recipient shall provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of CDBG assistance to substantially rehabilitate property.

(g) Homes inhabited by disabled or elderly persons must be analyzed as to the physical needs of such persons. Improvements such as widened doorways, ramps, level entry and doorways, and grab bars in bath areas must be installed if appropriate.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.487; 42 U.S.C.A. 5305(a).

.1011 LEAD-BASED PAINT

(a) The recipient must comply with the Lead-Based Paint Poisoning Prevention Act [42 U.S.C. 4831(b)], 24 CFR Part 570.608, and 24 CFR Part 35, including provisions and subsequent amendments of the above:

- (1) prohibiting the use of lead-based paint;
- (2) requiring elimination of lead-based paint hazards; and
- (3) requiring notification of the hazards of lead-based

paint poisoning to purchasers, owners and tenants of housing constructed prior to 1978 which was acquired or rehabilitated with CDBG assistance.

(b) All construction contracts as described in this Rule shall contain a provision prohibiting the use of lead based paint.

(c) This Subchapter incorporates by reference 24 CFR 570.487(c) including subsequent amendments and editions. Copies of this Section are available for public inspection from the Division of Community Assistance. Single copies are available from this Division in Raleigh, North Carolina at no charge.

(d) In lieu of the testing procedures set forth in the Guidelines, the recipient may forego testing and abate all applicable surfaces in accordance with the methods set out in the ~~Guidelines~~ Guidelines or HUD regulations.

(e) Lead-based paint hazard evaluation and abatement activities financed with CDBG funds must be conducted by individuals and firms that are certified in accordance with the applicable EPA and HUD requirements for Lead Based Paint activities.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(b)(4); 42 U.S.C.A. 4821 through 4846.

SECTION .1300 - HOUSING DEVELOPMENT PROJECTS

.1301 DESCRIPTION

Grants under this category will ~~develop support the~~ development of housing opportunities for low- and moderate-income persons. The Division may limit the use of program funds to specific eligible activities.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.483.

.1302 ELIGIBILITY REQUIREMENTS

(a) Applications for Housing Development funds must show that:

- (1) At least 51 percent of the CDBG funds proposed for each project will benefit low- and moderate-income persons; and
- (2) CDBG funds proposed for each activity will meet a national objective as specified in HUD regulations previously incorporated by reference, except that funds shall not be used to meet the national objective of urgent need which is covered by Rule .0801 of this Subchapter.

Applicants that do not meet these requirements will not be rated or funded.

(b) Applicants shall have the capacity to administer a Community Development Block Grant Program. The Division may examine the following areas to determine capacity:

- (1) audit and monitoring findings on previously funded Community Development Block Grant Programs, and the applicant's fiscal accountability

as demonstrated in other state or federal Programs or local government financial reports; and

- (2) the rate of expenditure of funds in previously funded Community Development Block Grant Programs.

~~(c) Housing Development projects will be rated by the Division against the following specific criteria:~~

- ~~(1) 85% of the project rating is based upon the project design including the feasibility of the project, its financial design, the capacity and experience of the applicant and other parties involved, the amount of leveraging other funds, the suitability of the site and surrounding amenities, and the demand from the market; and~~
- ~~(2) 15% of the project rating is based upon the benefit to low and moderate income persons both immediate and long-term.~~

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.482; 24 C.F.R. 570.483.

.1303 ELECTION CRITERIA

(a) Selection criteria will be announced by the Division prior to accepting applications for this category. The Division may accept applications ~~on a continuous basis for development grant during submission periods~~ at any time after the announcement of selection criteria.

~~(b) Housing Development projects will be rated by the Division against the following specific criteria:~~

- ~~(1) 85% of the project rating is based upon the project design including the feasibility of the project, its financial design, the capacity and experience of the applicant and other parties involved, the amount of leveraging other funds, the suitability of the site and surrounding amenities, and the demand from the market; and~~
- ~~(2) 15% of the project rating is based upon the benefit to low and moderate income persons both immediate and long-term.~~

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489.

SECTION .1700 - COMMUNITY EMPOWERMENT PROJECTS

.1701 DESCRIPTION

Grants under the ~~Entrepreneurial~~ Community Empowerment Category will improve self-sufficiency and economic opportunities for low- and moderate-income persons.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.483.

.1702 ELIGIBILITY REQUIREMENTS

(a) Applications for ~~Entrepreneurial~~ Community Empowerment funds must show that:

- (1) At least 51 percent of the CDBG funds proposed for each project will benefit low- and moder-

ate-income persons; and

- (2) CDBG funds proposed for each activity will meet a national objective as specified in HUD regulations previously incorporated by reference, except that funds shall not be used to meet the national objective of urgent need which is covered by Rule .0801 of this Subchapter.

~~Applicants that do not meet these requirements will not be rated or funded.~~

- ~~(3) The project includes at least one dollar (\$1.00) of non-CDBG funds to match each dollar of CDBG funds requested, except for projects in counties designated by the Secretary of Commerce as Tier One Enterprise Areas as defined in North Carolina General Statutes or areas designated by the federal government as Enterprise Zones.~~

~~(b) Applicants shall have the capacity to administer a CDBG program. The Division may examine the following areas to determine capacity:~~

- ~~(1) audit and monitoring findings on previously funded Community Development Block Grant programs, and the applicant's fiscal accountability as demonstrated in other state or federal programs or local government financial reports; and~~
- ~~(2) the rate of expenditure of funds and accomplishments in previously funded CDBG programs. Applicants that show a lack of capacity will not be rated or funded.~~

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.482; 24 C.F.R. 570.483.

.1703 SELECTION CRITERIA

(a) Projects will be evaluated and rated in accordance with the Annual Action Plan in the North Carolina Consolidated Plan.

(b) Localities that have Community Empowerment grants that are open may not apply for additional funds under this category until the grant is closed. In addition, local governments may have only one Community Empowerment application under review at one time.

Selection criteria will be announced by the Division 45 days prior to accepting applications for the ~~Entrepreneurial~~ Community Empowerment Category. Criteria for awards are:

- (1) community need,
- (2) community impact,
- (3) project design, and
- (4) financial feasibility.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489.

SECTION .1800 - NORTH CAROLINA DEVELOPMENT LOAN FUND

.1801 GENERAL

- (a) The North Carolina Development Loan Fund is a loan

program for non-entitlement communities participating in the Small Cities Community Development Block Grant program to access the Department of Housing and Urban Development's Section 108 Guaranteed Loan Program. The funds under this program are loaned to units of local governments for projects meeting one of the national objectives of benefiting low and moderate income persons, eliminating slums and blight or addressing a community's urgent needs, as defined in the Housing and Community Development Act of 1974 as amended.

(b) The Division shall review applications from local governments to the Department of Housing and Urban Development under the Development Loan Fund program. The review and approval must be made to pledge future state CDBG allocation as additional collateral for the Development Loan fund program.

(c) The Division will review applications for projects with housing, commercial and mixed use components. The Commerce Finance Center will review and approve economic development projects.

Authority G.S. 143B-431; 153A-376; 160A-456; 24 C.F.R. 570 Subpart M.

.1802 ELIGIBLE ACTIVITIES

(a) This section incorporates by reference as eligible activities those activities described in the Housing and Community Development Act of 1974, as amended, including subsequent amendments and editions under Section 108 and in 24 CFR 570.703.

(b) G.S. 143B-431(d)(3)f - further limits eligibility by finding that hotels, motels, private recreational facilities, private entertainment facilities and convention centers are ineligible for Development Loan Funds.

(c) Copies of these sections of state and federal law and regulation are available for public inspection from the Division of Community Assistance.

Authority G.S. 143B-431; 24 C.F.R. 570.703.

.1803 ELIGIBILITY REQUIREMENTS

(a) Applications for Development Loan Funds must show that:

- (1) All activities are eligible under state and federal regulations; and
- (2) Development Loan Funds proposed for each activity meet a national objective as specified by HUD regulations incorporated by prior reference; and
- (3) The applicant has the capacity to administer a Development Loan Fund project.

(b) The Division must make the following findings prior to an award:

- (1) A loan loss reserve is in place equal to 10% of the amount of the outstanding balance.
- (2) The approved loan may not take the total amount of outstanding obligations under the Development

Loan Fund to more than twice the amount of the annual CDBG allocation.

Authority G.S. 143B-431; 24 C.F.R. 570 Subpart M.

.1804 SIZE OF LOAN APPROVALS

(a) Maximum and minimum loan amounts will be published by the Division in the annual Consolidated Plan Action Strategy.

(b) Development Loan Funds approved shall not count toward a community's receipt of CDBG funds in any program year as outlined in Rule .0403 of this Subchapter.

Authority G.S. 143B-431; 24 C.F.R. 570 Subpart M.

.1805 SELECTION CRITERIA

Projects will be evaluated and approved in accordance with the annual statement of program design approved by HUD. Selection factors include the following:

- (1) Public benefit.
- (2) Project feasibility.
- (3) Cash flow of the project.
- (4) Collateral of the project.

Authority G.S. 143B-431; 24 C.F.R. 570 Subpart M.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Division of Mental Health, Developmental Disabilities and Substance Abuse Services intends to amend rules cited as 10 NCAC 14V .3402, .3803, .5602, and repeal rules cited as 10 NCAC 15A .0128 and .0129. Notice of Rule-making Proceedings was published in the Register on July 15, 1996.

Proposed Effective Date: May 1, 1997

Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice): Anyone who wishes to request a public hearing should submit the written request to Charlotte F. Hall, Rulemaking Coordinator, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, Albemarle Building, 325 N. Salisbury Street, Raleigh, NC 27603-5906 within 15 days following this published notice.

Reason for Proposed Action: 10 NCAC 14V .3402, .3803, .5602 - To clarify language contained in the Rule. 10 NCAC 15A .0128, .0129 - To repeal rules with duplicative language contained in other rules of this Section.

Comment Procedures: Written comments may be submitted to Charlotte F. Hall, Rulemaking Coordinator, Division of Mental Health, Developmental Disabilities and Substance

Abuse Services (DMH/DD/SAS), 325 N. Salisbury Street, Albemarle Bldg., Suite 558, Raleigh, NC 27603-5906, FAX 919-733-8259. Comments will be accepted until November 14, 1996.

Fiscal Note: *These Rule do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.*

CHAPTER 14 - MENTAL HEALTH: GENERAL

SUBCHAPTER 14V - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES

SECTION .3400 - RESIDENTIAL TREATMENT/REHABILITATION FOR INDIVIDUALS WITH SUBSTANCE ABUSE DISORDERS

.3402 STAFF

(a) Each facility shall have full-time staff as follows:

- (1) One full-time certified alcoholism, drug abuse or substance abuse counselor for a facility having up to 30 beds, and for every 30-bed increment or portion thereafter. One staff member for each 10 beds or increment thereof.
- (2) One full-time qualified alcoholism, drug abuse or substance abuse professional or one full-time certified alcoholism, drug abuse, or substance abuse counselor for facilities having 11 or more beds, and for every additional 10-bed increment or portion thereafter. At least one of the full-time staff members required by Subparagraph (a)(1) of this Rule shall be a full-time certified alcoholism, drug abuse, or substance abuse counselor for each 10 beds or increment thereof.
- (3) ~~The remaining full-time staff members required by Subparagraph (a)(1) of this Rule may be either qualified alcoholism, drug abuse, or substance abuse counselors.~~

(b) A minimum of one staff member shall be present in the facility when clients are present in the facility.

(c) In facilities that serve minors, a minimum of one staff member for each five or fewer minor clients shall be on duty during waking hours when minor clients are present.

(d) Any qualified alcoholism, drug abuse or substance abuse professional who is not certified shall become certified by the North Carolina Substance Abuse Professional Certification Board within 26 months from the date of employment, or from the date an unqualified person meets the requirements to be qualified, whichever is later.

(e) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, and

family therapy.

(f) Each direct care staff member in a facility that serves minors shall receive specialized training in youth development and therapeutic techniques in working with youth.

(g) Each facility shall have at least one staff member on duty trained in the following areas:

- (1) alcohol and other drug withdrawal symptoms; and
- (2) symptoms of secondary complications to alcoholism and drug addiction.

Authority G.S. 122C-26; 143B-147.

SECTION .3800 - ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOLS (ADETS)

.3803 OPERATIONS

(a) Curriculum. School instructors shall use a curriculum approved by the Division. Instructors may use the curriculum specified in the "Curriculum Manual for Alcohol and Drug Education Traffic Schools" (DMH/DD/SAS publication APSM 125-1, 130-1). Instructors who desire to use a different curriculum shall submit it to the Division for prior approval. The Division shall review the proposed curriculum to determine that it follows professionally accepted standards to meet the course objectives of reducing the frequency of alcohol and drug-related traffic offenses by modifying the behavior of course participants and of reducing recidivism, blood alcohol content levels, and alcohol/drug crashes.

- (1) The program of instruction shall consist of not less than ten hours of classroom instruction.
- (2) Each school may provide up to three additional hours for classroom time and such activities as an initial student assessment, data gathering or a summary conference with students. ~~Information regarding assessments is available~~ Requirements contained in 10 NCAC 18F .0300 SUBSTANCE ABUSE ASSESSMENTS FOR INDIVIDUALS CHARGED WITH OR CONVICTED OF DRIVING WHILE IMPAIRED (DWI) shall be followed by anyone who provides DWI assessments.

(b) Class Schedule. Each school shall provide a written notice to each student referred by the court as to the time and location of all classes which the student is scheduled to attend.

- (1) Each student shall be scheduled to attend the first and the last class sessions in the order prescribed in the curriculum.
- (2) Classes shall be scheduled to avoid the majority of employment and educational conflicts.
- (3) Each school shall have a written policy which allows for students to be excused from assigned classes by the instructor provided that the excused absence is made up and does not conflict with Subparagraph (b)(1) of this Rule.
- (4) No class session shall be scheduled or held for more than three hours excluding breaks on any

day or evening.

(c) Class Size. Class size shall be limited to a maximum of 35 persons.

~~(d) Court Liaisons. Each school shall develop and implement written procedures of liaison with the court. These procedures shall be agreed upon and signed by the designated employee of the school and by the clerk of court, judge and district attorney. These procedures shall include at least the following:~~

- ~~(1) the procedure used to obtain referral of offenders from the court;~~
- ~~(2) a provision that the school will notify each student of the time, date, and location of assigned classes;~~
- ~~(3) the procedure for notifying the court of a student's successful completion of the course;~~
- ~~(4) communicating to students in writing the requirements for completing the course and developing a procedure to notify the court of non-compliance cases.~~

(d) DWI Services Certificates Of Completion. The original copy of the North Carolina Department of Human Resources DWI Services Certificates of Completion shall be forwarded to DMH/DD/SAS for review within two weeks of completion of all services.

Authority G.S. 20-179; 20-179.2; 143B-147.

SECTION .5600 - SUPERVISED LIVING FOR INDIVIDUALS OF ALL DISABILITY GROUPS

.5602 STAFF

(a) Staff-client ratios shall be determined so as to enable staff to respond to individualized client needs.

(b) A minimum of one staff member shall be present at all times when any adult client is on the premises, except when the client has been deemed capable of remaining in the home without supervision for a specified time by a qualified professional of the operating agency or area program. The approval shall be documented. ~~A minimum of one staff member shall be present at all times when any adult client is on the premises in any facility serving clients with substance abuse disorders. In facilities serving clients of other disability groups, a minimum of one staff member shall be present at all times when any adult client is on the premises except when the client has been deemed capable of remaining in the home without supervision for a specified time by a qualified professional of the operating agency or area program. The approval shall be documented.~~

(c) Staff shall be present in a facility in the following client-staff ratios when more than one child or adolescent client is present:

- (1) children or adolescents with mental illness or emotional disturbance shall be served with one staff present for every four or fewer clients present;
- (2) children or adolescents with substance abuse disorders shall be served with a minimum of one

staff present for every five or fewer minor clients present during waking hours. However, only one staff member need be present during sleeping hours if emergency back-up procedures as determined by the governing body are sufficient to allow only one staff member on duty; or

- (3) children or adolescents with developmental disabilities shall be served with one staff present for every one to three clients present and two staff for every four or more clients present. However, only one staff member need be present during sleeping hours if emergency back-up procedures are sufficient to allow only one staff member on duty.

(d) In facilities which serve clients who have substance abuse disorders:

- (1) at least one staff member who is on duty shall be trained in alcohol and other drug withdrawal symptoms and symptoms of secondary complications to alcohol and other drug addiction;
- (2) when the clients are minors, staff shall be trained in youth development and therapeutic techniques in working with youth; and
- (3) the services of a certified alcoholism counselor, a certified drug abuse counselor or a certified substance abuse counselor shall be available on an as-needed basis for each client.

(e) In facilities which serve individuals with behavior disorders in addition to developmental disabilities, the staff shall include at least one staff member who has received training in the area of behavior management through educational preparation in special education, psychology or a closely related field.

Authority G.S. 143B-147.

CHAPTER 15 - MENTAL HEALTH HOSPITALS

SUBCHAPTER 15A - GENERAL RULES FOR HOSPITALS

SECTION .0100 - VOLUNTARY ADMISSIONS: INVOLUNTARY COMMITMENTS AND DISCHARGES OF ADULTS FROM REGIONAL PSYCHIATRIC HOSPITALS

.0128 PLACEMENT OF CLIENTS OUTSIDE THEIR COUNTY OF RESIDENCE

~~(a) When a client of a hospital is to be placed in a facility outside his county of residence, hospital staff shall consult with staff of the area program which serves the county in which the client is to be placed prior to making such a placement. Consultation shall include such issues as:~~

- ~~(1) the client's characteristics;~~
- ~~(2) the area program's knowledge of the facility being considered; and~~
- ~~(3) the area program's assessment of the facility's~~

~~ability to manage the client being considered for placement.~~

~~(b) When a client discharged from a hospital is placed outside his county of residence, the hospital shall send, at the time of discharge, the following records to the area program in whose catchment area the client is placed:~~

- ~~(1) hospital's psychiatric evaluation;~~
- ~~(2) social history; and~~
- ~~(3) post institutional plan.~~

~~In addition, the hospital discharge summary shall be sent to that area program within 30 days of discharge.~~

~~(e) Hospital staff shall notify the area program that serves the client's county of residence of the client's placement site within 72 hours of all planned discharges. That area program shall send to the area program in whose county the client will be placed a copy of the client's most recent treatment plans, medication sheets and other pertinent evaluation information in accordance with G.S. 122C-53(a) and 122C-55(a).~~

~~(d) The area program in whose county the client is placed shall provide services to that client on the same basis as services are provided to other residents of the catchment area.~~

Authority G.S. 122C-3; 122C-112; 122C-117; 143B-147.

.0129 RESOLUTION OF DIFFERENCES OF OPINION

~~(a) Except as provided in Rule .0122(b) of this Section, differences of opinion between area program staff and hospital staff regarding admission, treatment or discharge issues shall be resolved through negotiation involving appropriate hospital and area program staff up to and including the area program's director and the hospital's director.~~

~~(b) If resolution cannot be reached by the Directors of the two organizations, the issue in dispute may be taken by either party to the appropriate regional director.~~

~~(c) The regional director may choose to function as mediator of the dispute or he may choose to refer the matter to the Division director for resolution.~~

Authority G.S. 143B-147.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services intends to adopt the rule cited as 10 NCAC 18W .0201 - .0219. Notice of Subject Matter was published in the Register on November 1, 1995.

Proposed Effective Date: January 1, 1997

Instructions on How to Demand a Public Hearing: A demand for public hearing must be requested in writing

within 15 days of this notice and addressed to Charlotte F. Hall, Division of MH/DD/SAS, 325 N. Salisbury Street, Albemarle Bldg., Raleigh, NC 27603-5906.

Reason for Proposed Action: To adopt rules in accordance with G.S. 122C-112(a)(14) as set forth in the 1995 Session Laws Chapter 249 for determining eligibility, ensuring the provision of services, and providing for contested case hearings for eligible assaultive and violent children.

Comment Procedures: Please submit written comments to Charlotte F. Hall, Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS), 325 N. Salisbury Street, Albemarle Bldg., Suite 558, Raleigh, NC 27603-5906, FAX 919-733-8259. The deadline for written comments is November 15, 1996.

Fiscal Note: These Rules do affect the expenditures or revenues of state funds. These Rules do not affect local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 18 - MENTAL HEALTH: OTHER PROGRAMS

SUBCHAPTER 18W - DESIGNATION OF AREA MENTAL HEALTH: MENTAL RETARDATION AND SUBSTANCE ABUSE AUTHORITIES AND CATCHMENT AREAS

SECTION .0200 SERVICES FOR ELIGIBLE ASSAULTIVE AND VIOLENT CHILDREN AND ADOLESCENTS

.0201 SCOPE

(a) These Rules implement G.S. 122C-112(a)(14) and 122C-194 through 122C-200 by establishing requirements for:

- (1) designating Eligible Assaultive and Violent Children (EAVC);
- (2) ensuring provision of services to EAVC clients; and
- (3) administrative review of decisions related to EAVC services or eligibility

(b) These Rules shall govern all disputes related to EAVC services and eligibility unless those disputes are governed by Procedures Governing Programs and Services for Children with Special Needs.

(c) Each EAVC client shall be provided services that include:

- (1) habilitation, including medical treatment, education, training and care, suited to his needs, which affords him a reasonable chance to acquire and maintain those life skills that enable him to cope as effectively as his own capabilities permit with

- the demands of his own person and of his environment and to raise the level of his physical, mental and social efficiency. Such habilitation shall create a reasonable expectation of progress toward the goal of independent community living.
- (2) the least restrictive, i.e., most normal, living conditions appropriate for that person. Among the factors to be considered in determining the least restrictive living conditions appropriate for the individual are the need to minimize institutionalization and the need to minimize the possibility of harm to the individual and society.
 - (3) goals, as appropriate to the individual, that enable the client to move from:
 - (A) Living and programming segregated from the community to living and programming integrated with the community;
 - (B) More structured living to less structured living;
 - (C) Group residences to individual residences; and
 - (D) Dependent living to independent living.
 - (4) such placements and services as are actually needed as determined by a Treatment/Habilitation Plan rather than such placements and services as are currently available. If placements and services actually needed are not available, they shall be developed and implemented within a reasonable period. Prior to development and implementation of needed placements and services, the person shall receive placement and services which meet as nearly as possible the person's actual needs.

Authority G.S. 122C-3; 122C-112; 122C-194; 122C-195; 122C-196; 122C-197; 122C-198; 122C-199; 122C-200.

.0202 DEFINITIONS

(a) This Rule contains definitions that apply to all of the rules in this Section. Definitions contained in G.S. 122C-3 shall also apply.

(b) Unless otherwise indicated, the following terms shall have the meanings specified:

- (1) "Advocate or Representative" means an attorney or guardian ad litem pursuant to G.S. 7A for an EAVC applicant or client. In the event that an EAVC applicant or client has a representative other than an attorney retained by the client or parent/guardian or GAL appointed under G.S. 7A, the Department or Division shall retain the right to challenge whether a representative is in fact acting on behalf of the child and at the child's request.
- (2) "Appropriate Services" means services which include a good faith and professionally competent effort to enable the child to overcome or cope with the problems that led to eligibility and to

prepare the child for the reasonably expected life and problems to be encountered in adulthood. The provision of appropriate services is judged against the needs of the individual, which are based on the capabilities and potential of the individual. The eligible client is not guaranteed a "cure" or a "positive outcome," but rather a good faith effort to accomplish the goals set forth herein.

- (3) "Contract agency" means an agency or entity under contract with the Division, acting in the role of an area program for purposes of serving EAVC in a particular geographic area.
- (4) "Division" means the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS).
- (5) "Director" means the Director of the Division of DMH/DD/SAS.
- (6) "EAVC applicant or Willie M. nominee" means any child under the age of 18 who has applied for or been nominated for determination of eligibility as a Willie M. class member or an EAVC client.
- (7) "Eligible assaultive and violent child (EAVC)" means a child under the age of 18 who has been determined by the Department of Human Resources to meet the eligibility criteria as defined in these Rules and is eligible to receive the services needed.
- (8) "Essential needs" means behaviors or supports which must be in place for the child to overcome or cope with the problems that led to EAVC eligibility, to prepare for adulthood and to acquire and maintain life skills consistent with the individual's potential and capabilities.
- (9) "Lead agency" means the Division at the State level and the area MH/DD/SA program or contract agency at the local level.
- (10) "Legally responsible person" means the term as defined in G.S. 122C-3.
- (11) "Outcome domain areas" means areas, as indicated for each EAVC client, within which a client's essential needs shall be defined. The areas shall include social, behavior, education, vocation, housing/residential, and health (including mental health).
- (12) "Treatment/habilitation plan (T/HP)" means a written plan which is developed by the group of individuals (the team) knowledgeable about and involved with addressing the child's needs. The plan contains a written statement of the child's needs in the essential areas, or domains, of life (as defined in this Section), and the supports and interventions which are required in order to address the child's needs (as defined in this Section). Mandatory members of the T/HP team include the child, parent or guardian, case manager and local school system representative.

Clinical input concerning the child's needs for use in developing, implementing and reviewing the T/HP shall be provided to the team by clinicians with expertise and experience related to serving children with emotional, mental or neurological handicapping conditions accompanied by behavior characterized as assaultive or violent.

- (13) "Willie M. Class Member" means a child under the age of 18 who has been or is determined by the Department of Human Resources to meet the criteria for inclusion as a member of the plaintiff class in the Willie M., et al. v. James B. Hunt, Jr., et al. lawsuit (United States District Court for the Western District of North Carolina C-79CV294 - MU). All Willie M. class members, otherwise eligible for services, are Eligible Assaultive and Violent Children, according to the rules herein.
- (14) "Youth Behavioral Services Client (YBSC)" means, for the purposes of these Rules, a Willie M. class member and an EAVC.

Authority G.S. 122C-3; 122C-112.

.0203 GENERAL PROVISIONS

(a) The Secretary of the Department of Human Resources shall designate the Director of the Division with lead responsibility in carrying out the implementation of these Rules and services provided pursuant to these Rules.

(b) Designation as a YBSC minor is voluntary and shall occur only with the consent of the legally responsible person.

(c) All certified members of the Willie M. class, eligible for services, shall be designated Youth Behavioral Services Clients.

- (1) If a legally responsible person or an emancipated minor refuses services after the minor has been determined eligible as a YBSC, the area program or contract agency shall make periodic contacts with the legally responsible person or the emancipated minor to encourage consent for receipt of services.
- (2) The area program or contract agency shall maintain a record of its efforts to obtain consent. Such efforts shall include, but not be limited to phone calls, registered letters, home visits, contact with the family through individuals or agencies having a relationship with the minor and legally responsible person.
- (3) Where services are refused, the agencies shall obtain clinical input to determine whether refusal of consent constitutes medical neglect of the minor's treatment needs and, if so, take steps with respect to this neglect.
- (4) Refusal of consent for eligibility determination or for services shall cause an applicant or client to be placed in "inactive" status until such time as

consent is obtained, or until the child is 18 years of age.

(d) The legally responsible person and the area program or contract agency shall notify the Division of the occurrence of any circumstance which effects the eligibility of a YBSC or applicant to receive services. The Division shall be notified if:

- (1) the legally responsible person or emancipated minor withdraws consent for determination of eligibility or refuses services;
- (2) the client is admitted to an adult corrections facility operated by the North Carolina Department of Corrections;
- (3) the legally responsible person's State of residence changes; or
- (4) the client dies.

(e) A child under the age of 18 who is an applicant for eligibility as a YBSC or who has been determined by the Department of Human Resources to meet the eligibility criteria for being a Willie M. class member or a YBSC is ineligible for services if any one of the following circumstances exists:

- (1) The child's legally responsible person is not a legal resident of North Carolina; or
- (2) The child has been confined under a criminal sentence in a facility operated by the North Carolina Department of Corrections.

If either of the circumstances in this Paragraph changes before the child is 18 years of age, the child shall again be eligible for services until age 18, as set forth in these Rules.

(f) The death of a Willie M. class member or YBSC ends the minor's eligibility for services.

(g) Fees for services provided pursuant to these Rules, with the exception of education services, will be charged and collected consistent with the provisions of G.S. 122C-146.

Authority G.S. 122C-112; 122C-146.

.0204 ELIGIBILITY CRITERIA

In order to be designated a Youth Behavioral Services Client, a minor shall have an application filed in accordance with these Rules and:

- (1) suffer from emotional, mental or neurological handicaps as set forth in Rule .0205 of this Section;
- (2) the minor's handicap shall be accompanied by behavior that is characterized as violent or assaultive, as defined in Rule .0206 of this Section;
- (3) have met at least one of the following conditions:
 - (a) is institutionalized or has been institutionalized pursuant to G.S. 122C, Article 5;
 - (b) has been referred to an area mental health, developmental disability and substance abuse director pursuant to G.S. 7A-647(3) for whom residential treatment or placement is recommended;

- (c) is in or has been placed in residential programs as a condition of probation pursuant to G.S. 7A-649(1);
- (d) is in or has been ordered to a professional residential treatment program pursuant to G.S. 7A-649(6); or
- (e) is in or has been committed to the Division of Youth Services pursuant to G.S. 7A-649(10); and
- (4) is a minor for whom the State has not provided appropriate treatment and educational programs as defined in Rule .0207 of this Section.

Authority G.S. 7A-647(3); 7A-649(1), (6), (10); 122C-3; 122C-112; 122C, Article 5.

.0205 EMOTIONAL, MENTAL OR NEUROLOGICAL HANDICAP DEFINED

To meet the requirement of suffering from emotional, mental or neurological handicaps, a minor shall:

- (1) have one or more conditions so diagnosed according to International Classification of Diseases -9, American Association of Mental Deficiency, or Diagnostic and Statistical Manual of Mental Disorders-IV systems of categorization (exceptions to this criterion shall include those disorders in the DSM-IV or later versions, to which no logical or reasonable connection can be made between that disorder and accompanying assaultive or violent behavior; e.g., nicotine-related disorders. In addition, V codes, with no accompanying Axis I-III diagnoses, do not constitute an emotional, mental or neurological handicap. Such exceptions would apply only when there is no other emotional, mental or neurological handicap); or
- (2) meet the criteria set by the North Carolina Board of Education for handicapping conditions; or
- (3) meet the statutory definition of mental illness for a minor in G.S. 122C-3.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0206 VIOLENT OR ASSAULTIVE BEHAVIOR DEFINED

(a) To meet the criterion of violent or assaultive behavior, there shall be evidence in the minor's recent history (within the 12 months prior to the application or request for re-review of eligibility) or current functioning of one or more of the following:

- (1) physically attacks, with or without weapons against other persons or animals, or physical attacks resulting in property damage;
- (2) physically self-injurious behavior or serious suicidal attempts;
- (3) threatened attacks with a deadly weapon;
- (4) firesetting; or

- (5) predatory sexual behaviors.
- (b) In addition, the behaviors shall meet two or more of the following tests:
 - (1) the attack shall be sufficiently severe that substantial harm to persons did result or could result without intervention;
 - (2) the behavior shall have occurred with sufficient frequency to be considered a pattern of response (more than three times over a period of six months);
 - (3) is extreme or out of proportion to the provocation, if any, or is not an age-appropriate reaction;
 - (4) was sufficiently disruptive to lead to extrusion from or refusal for admittance to school, job, recreational setting, or treatment program;
 - (5) resulted in severe measures of control, e.g., seclusion, restraints, or chemical controls; or
 - (6) resulted in incarceration or institutionalization with the restrictive environment then "controlling" the behavior.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0207 DETERMINATION THAT STATE HAS NOT PROVIDED APPROPRIATE TREATMENT

(a) To meet the criterion that the State has not provided appropriate treatment, the application shall show evidence of one or more of the following conditions, in addition to meeting the other criteria outlined in Rule .0204 of this Section:

- (1) The minor has a diagnosis and a prescribed need for treatment that has not been implemented; or the current treatment or education services are not based on assessments which reflect the child's essential needs.
- (2) The minor has an IEP that has not been implemented.
- (3) The current treatment or education program must use restrictive measures (e.g., seclusion, restraints, questionably high doses of medication) that would not be necessary with more staff, staff trained more specifically in relation to the minor's behavior, if the program offered more security, or if needed service supports were available.
- (4) Multiple residential treatment placements (more than three in a one- year period), which are disrupted due to the inability of the placement to provide supports or services which are sufficient or intensive enough to address the child's treatment needs.
- (5) The current treatment plan could be implemented as effectively or more effectively in a less restrictive setting, if one existed and if an array of sufficient support services existed, which would still address the child and community's needs for safety. Examples of a "less restrictive setting," include:

- (A) a setting that allows the minor more mobility, more exchange with peers, family or community outside of the treatment setting, and which still addresses the child and community's needs for safety;
- (B) a smaller, more home-like setting or a more normalized environment; and
- (C) the minor's own home.

(b) In addition to meeting at least one of five conditions listed in this Rule, there must be evidence that the child's treatment and education needs are not or could not be met through existing and readily available services and supports which the child can access, or to which the child is entitled from any source.

(c) If a child is denied eligibility for services based on the determination that needs can be met through existing services which are not currently being provided, the area program, contract agency or Division shall ensure the provision of such services.

(d) For minors who are determined ineligible due to a finding that the current services are appropriate to their needs, evidence of changes in services or in treatment needs which cannot be met through available services shall be submitted to the Division for a re-review of eligibility.

(e) In the case of known and identified future service needs which do not exist or are not available, a request for re-review of eligibility may be made up to 90 days prior to discharge from or change in the current services.

(f) The request for re-review of eligibility determination shall include information on the service needs of the applicant which cannot be met by the currently available services.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0208 APPLICATION FOR DESIGNATION AS YOUTH BEHAVIORAL SERVICES CLIENT

(a) Any individual may make application for a minor as a potential Youth Behavioral Services Client by submitting an application to either the area program or contract agency whose catchment area includes the minor's legal county of residence or to the Division.

(b) Area programs shall not discourage the application of any minor and staff shall offer guidance in selecting the proper application procedures to follow.

(c) The area program or contract agency shall collect and forward to the Division information needed to complete the application process, as outlined by the Division.

(d) Consent from the legally responsible person shall accompany the application.

(e) If someone other than the legally responsible person makes application for eligibility, and the application is submitted without consent from the legally responsible person, the Division shall notify the appropriate area mental health program or contract agency to obtain the required consent in order to make an eligibility determination. A formal eligibility determination cannot be made without

consent from the legally responsible person.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0209 DETERMINATION OF ELIGIBILITY

(a) The Director, or his designee, shall determine the eligibility of an applicant for designation as a Youth Behavioral Services Client, according to the scope and criteria outlined in the Rules .0201, .0204, .0205, .0206, and .0207 of this Section.

(b) The Director, or his designee, shall develop application requirements for applicants, area programs and contract agencies, and other agencies which are consistent with the criteria outlined in the rules and are designed to facilitate the appropriate and timely identification of clients who meet Youth Behavioral Services Client eligibility criteria.

(c) The Director, or his designee, shall ensure that information submitted for eligibility determination is reviewed by individuals with expertise and experience related to serving children with emotional, mental or neurological handicapping conditions accompanied by behavior characterized as assaultive or violent.

(d) During the submission process, all information shall be reviewed by Division staff who may request clarification or additional documentation to complete the application package. The Division will reimburse area programs or contract agencies for services required in order to collect needed information for application packages and, if necessary, for conducting evaluations the Division determines are needed in order to gather sufficient information to make an eligibility determination.

(e) Within 30 days of obtaining a complete application package, a notice of the decision in response to the application shall be issued by the Division to the legally responsible person for the applicant, to the area director, the area Youth Behavioral Services Coordinator, the appropriate school system, and the referring individual or agency. Changes in circumstances of the applicant or legally responsible person or a request to obtain or review additional information in support of the application may result in a delay in the 30-day timeline. The Division shall notify the legally responsible person of any extension in the timeline for review of the application and the reasons for the extension. Extensions of the 30-day timeline for such reasons do not constitute a failure by the Division to meet the requirements set forth in this Rule.

(f) A separate formal letter containing the Notice of Decision shall be sent to the legally responsible person of the minor notifying them of the decision.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0210 RE-REVIEW OF ELIGIBILITY DECISIONS

(a) The Division shall retain the application package for each applicant determined to be not eligible until the applicant's eighteenth birthday, and may re-review (reconsider) the decision upon request if there is reason to believe

that the applicant's handicapping condition, behavior and/or service needs meet the criteria. A request for re-review shall be submitted to the Division by the legally responsible person or advocate, and shall be accompanied by any new information or information not previously submitted.

(b) If additional information is needed in order to conduct a re-review, the Division shall request that information and notify the legally responsible person or advocate and involved area mental health or contract agency of the information request and the reason for any delay in the re-review process.

(c) Upon receipt, the application package and the new information shall be reviewed within 30 days to determine if the applicant is now eligible. All parties notified of the original decision shall be notified of the re-review decision.

(d) The Division shall issue another Notice of Decision to a parent, or guardian when the re-review decision is made.

(e) If the legally responsible person or advocate disagrees with the determination of eligibility decision, either party may request, in writing, that the Division conduct an Administrative Re-review of the original application package and resultant decision:

- (1) The request for an Administrative Re-review shall include a statement summarizing the basis for the request.
- (2) The Division will re-review the original application, reconsider the earlier decision, and issue another eligibility decision within 30 days of receipt of the request for an Administrative Re-review.
- (3) If the minor, the legally responsible person, or advocate disagrees with the decision from the Administrative Re-review, either party may initiate a contested case hearing to resolve the dispute.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0211 NEEDS ASSESSMENT

(a) Each Youth Behavioral Services Client shall receive assessments and evaluations that are necessary for a thorough and accurate understanding of the minor's essential needs in the desired outcome domain areas: social, behavior, education, vocation, housing/residential, and health (including mental health).

(b) Needs shall be identified without regard to service availability.

(c) Needs in each of the six outcome areas set forth in Paragraph (a) of this Rule shall be addressed and prioritized within each domain as to their relative importance in the minor's life at the particular time. To the extent that needs must be prioritized, such prioritization shall relate to the timing of addressing needs rather than whether they should be addressed at all.

(d) Factors in both assessing and determining needs shall include:

- (1) the minor's capabilities and potential;
- (2) the minor's need for stability in personal relationships and the ability of caregivers (family and staff) to provide that stability; and
- (3) major risks to the minor's health, safety and integration with the community.

(e) Clinical and other appropriate resources shall be used to produce timely, thorough and accurate diagnosis, evaluation and needs assessments, both prior to the development of the service plan and as an ongoing part of treatment and education.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0212 SERVICE PLANNING.

Each Youth Behavioral Services Client shall have an individualized treatment/habilitation plan (T/HP) developed within 60 days of notice of eligibility as a Youth Behavioral Services Client. If identified as eligible for Exceptional Children's education services, the child shall also have an Individual Education Plan (IEP).

- (1) Legally Responsible Person and client participation in development of the service plans is expected and shall be facilitated.
- (2) The habilitation plan shall address the client's essential needs and reflect the prioritization required as a result of timing and developmental progress.
- (3) Goals, objectives and strategies shall address movement toward a transition into adulthood that is consistent with the client's capabilities and potential and the reasonably expected life and problems the client will encounter as an adult.
- (4) The service plans shall provide each client with the most normal, least restrictive living arrangements and conditions appropriate to individual needs.
- (5) The service plans shall address the client's need for safety for both self and others. The need for least restrictive environment and the need to minimize the possibility of harm to the client and to society are factors to be considered in determining the level of restriction for the client's treatment and education setting.
- (6) The service plans shall include:
 - (a) Goals, or global end results and objectives, or intermediate results, to be accomplished in order to achieve the identified goal.
 - (b) Strategies and individual assignments for implementation, facilitation, and responsibility for each strategy (e.g., minor, legally responsible person, agency representative, etc.).
 - (c) Measures of progress to be used for strategies directed toward the long-term desired outcomes for the client.
 - (d) Risks (e.g., behavioral regression, medical

deterioration) that threaten success of the plan, and supports and services to anticipate and address such risks.

(e) Strategies for addressing crises.

- (7) Service plans shall be revised as needed, but at least annually, based on changes in the child, including progress or lack of progress, significant life events, deterioration, and criminal behavior.
- (8) As early as needed, but no later than age 16, a new plan will be developed that includes specific goals, objectives and strategies related to transition to adulthood.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0213 PROVISION OF SERVICES

(a) Services shall be provided within 60 days of notice of eligibility as a Youth Behavioral Services Client to address the client's essential needs, with sufficient intensity and continuity to meet those needs.

(b) Services are to be directly related to the goals and objectives identified in the habilitation plan.

(c) To the extent necessary for the individual client, appropriate resources (neighborhood, extended family, church and other community resources) shall be used to facilitate integration into the client's existing or anticipated adult community.

(d) If needed placements and services do not exist or are not available, they shall be developed and implemented within a reasonable period.

(1) The area program or contract agency shall take the necessary steps to develop and implement the needed services and shall notify the Division and seek necessary assistance for developing needed services.

(2) The minor's T/HP shall include services and supports which will be provided in the interim, until appropriate services are available.

(A) In addition, the T/HP shall include timelines by which appropriate services will be developed and provided.

(B) Prior to development and implementation of needed services, a Youth Behavioral Services Client shall receive, in the interim, services which meet as nearly as possible all essential needs.

(e) Services for a Youth Behavioral Services Client may continue for a reasonable period of time beyond the client's eighteenth birthday if the individual:

(1) continues to be in need of such treatment and will benefit from continuing placement or involvement in services which the client is receiving treatment on his/her eighteenth birthday; and

(2) voluntarily agrees to continue treatment in those services in a manner consistent with state law or is confined pursuant to applicable state law.

If the conditions in this Paragraph are met, services may

continue beyond the client's eighteenth birthday for six months or until the end of the current fiscal year, whichever is longer. If, after turning eighteen and before the extension period has been exhausted, the client decides to terminate or ceases participation in services, the client's eligibility for continued services under these rules ends at that time.

(f) A determination of eligibility as a Youth Behavioral Services Client does not preclude or prevent access to services to which the minor would otherwise be entitled.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0214 AREA PROGRAM REQUIREMENTS.

(a) Area programs or contract agencies shall, directly or through contract agencies, provide services for Youth Behavioral Services Clients whose legal county of residence is located in their catchment area.

(b) Each area program or contract agency shall establish procedures for providing services to Youth Behavioral Services Clients, including designation of an area program Youth Behavioral Services Client Coordinator, submission of required information and reports to the Division, and information-gathering and preparation of needed evaluations for applications of potential Youth Behavioral Services Clients.

(c) Each area program or contract agency that has a Youth Behavioral Services Client shall establish and maintain accreditation for provision of services to Youth Behavioral Services Clients pursuant to 10 NCAC 14V .0600 Accreditation of Area Programs and Services, contained in Rules for Mental Health, Developmental Disabilities and Substance Abuse Facilities and Services, Division publication APSM 30-1.

(d) Each area program or contract agency shall comply with budgeting, fiscal, individual service planning, individual assessment and outcome evaluation, and service reporting requirements established by the Division.

(e) Each area program or contract agency shall assist in the collection of or development of information needed to process applications for potential Youth Behavioral Services Clients.

(f) Each area program or contract agency shall develop individualized treatment/habilitation plans (T/HPs) according to Division guidelines, and shall provide requested information regarding annual monitoring of service appropriateness and service outcomes for all Youth Behavioral Services Clients.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0215 DIVISION REQUIREMENTS

The Division shall:

- (1) establish and promulgate requirements for the provision of services to Youth Behavioral Services Clients, including evaluation, assessment, service planning, and the collection of information on outcome measures for all individual Youth Behav-

- ioral Services Clients.
- (2) regularly monitor provision of services to individual Youth Behavioral Services Clients, including periodic sample reviews of the individual treatment/habilitation plans of Youth Behavioral Services Clients.
 - (3) monitor, at least on an annual basis, a sample of Youth Behavioral Services Clients and make determinations as to whether they are receiving needed services.
 - (4) address service deficiencies for individuals and groups of Youth Behavioral Services Clients and take steps necessary to meet the client's needs, as those deficiencies are identified through special as well as ongoing monitoring activities.
 - (5) ensure that there is a review of a sample of its determinations as to appropriate services for individual Youth Behavioral Services Clients and of a sample of its assessments of local systems of services conducted by an independent entity on at least a biannual basis.
 - (6) establish and maintain statewide requirements and policies for the provision of services to Youth Behavioral Services Clients.
 - (7) together with the Department of Public Instruction, shall monitor on an annual basis the provision of services by local programs, including area mental health programs, local school systems, and other local agencies or contract agencies which have responsibilities for services to Youth Behavioral Services Clients.
 - (8) shall provide funding to area programs and contract agencies for Youth Behavioral Services Clients and for information-gathering by area programs or contract agencies as part of the application process for Youth Behavioral Services Clients, as made available from the General Assembly and through federal sources:
 - (a) these funds shall be expended according to budgeting and reimbursement requirements and policies established by the Division and according to applicable state laws.
 - (b) funds appropriated by the General Assembly for Youth Behavioral Services Clients shall be expended only for programs serving Youth Behavioral Services Clients, including evaluations of applicants.
 - (9) reallocate these funds among services to Youth Behavioral Services Clients during the year as it deems advisable in order to use the funds efficiently in providing appropriate services to Youth Behavioral Services Clients.
 - (10) continue to implement its prospective unit cost reimbursement system and shall ensure that unit cost rates reflect reasonable costs. The Division shall take steps to reduce and/or cap rates to programs which are significantly higher than those

rates paid to other programs for the same service. Any exceptions to this requirement shall be approved by the Director and shall be reported in the Department's annual report.

- (11) notwithstanding any other provision of law, if the Division determines that a local program is not providing appropriate services to Youth Behavioral Services Clients, the Division shall ensure the provision of these services through contracts with public or private agencies or by direct operation by the Division of such services.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0216 PRIOR NOTICE OF DECISION

(a) Notice of decision shall be given to a minor's legally responsible person and advocate whenever the Division, an area program or other service-providing agency initiates or proposes to change; or after request by the minor's legally responsible person or advocate refuses to initiate or change:

- (1) the eligibility status of a Youth Behavioral Services Client or applicant;
- (2) a client's needs assessment;
- (3) a client's T/HP; or
- (4) a client's services or placement.

(b) Timing: Notice of decision shall be provided within a reasonable time prior to the intended action, but not later than ten days prior to the effective date of the proposed action for eligible Youth Behavioral Services Clients. Notice of decision for an eligibility determination decision shall be provided when the decision is made by the Division. The minor's legally responsible person or advocate has the right to appeal the eligibility decision from this point in time.

(c) Means of Notice: The notice of decision shall be in writing. The area program, contract agency or Division shall document that the notice has been sent to the legally responsible persons or advocate.

(d) Content: The notice of decision, at a minimum, shall state the name of the client or applicant, the action requested, the intended action or refusal to act, and the effective date of the proposed action or refusal to act. In addition, the notice shall:

- (1) explain why the agency proposes to act or refuses to act;
- (2) describe the evaluation or assessment procedures, tests, records or reports that the agency uses as a basis for the proposed action or refusal;
- (3) describe any other factors relevant to the agency's decision;
- (4) describe any options that agency considered, and why those options were rejected, if applicable; and
- (5) provide a full explanation of the client's procedural safeguards with respect to the agency's decision, including:
 - (A) the right to voluntary mediation, how to

request it, and to whom to make the request;

- (B) the right to an impartial administrative review under contested case hearing procedures, the grounds specified in G.S. 122C-195 for obtaining administrative review of proposed decisions, the procedure for initiating administrative review, and the time limits in which to initiate administrative review;
- (C) the right to review the decision and the opportunity to examine records related to the decision;
- (D) the right to seek an independent evaluation;
- (E) the right to be represented by counsel; and
- (F) in the case of a determination of noneligibility, the right to submit additional information and request an administrative re-review of eligibility before proceeding with a contested case hearing.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0217 MEDIATION

(a) The legally responsible person or advocate for a Youth Behavioral Services Client dissatisfied with a decision may request a voluntary mediation of disputes as described in G.S. 122C-197 by making such a request, formally or informally, to the director of the involved area authority, to the director of the agency proposing the decision, or to the designee of either agency as identified in the prior notice or notice.

(b) Upon receiving a request for mediation, the director, or designee, of the agency proposing the decision shall schedule and conduct, within ten working days of the mediation request, a mediation with the individuals designated in G.S. 122C-197. The meeting shall be informal and nonadversarial. No witnesses shall be placed under oath or cross-examined.

(c) Requests for mediation of disputes regarding eligibility decisions shall be made directly to the Division.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0218 CONTESTED CASE HEARINGS

(a) The legally responsible person or advocate may obtain review of proposed decisions on the grounds and in the manner specified in G.S. 122C-195.

(b) Any agency served with a petition seeking such review shall advise the Division and the appropriate area authority and furnish each with a copy of the petition if the Division or the area authority have not been named as parties.

(c) A local or state agency may obtain review as provided by these rules and applicable state laws if a legally responsible person or advocate refuses to consent to the evaluation of the minor or to the provision of services for a

Youth Behavioral Services Client.

(d) A decision made pursuant to a contested case hearing shall be in writing and shall be provided to the legally responsible person or advocate, area program/contract agency director, and Division Director.

(e) Decisions pursuant to a contested case hearing shall be made within 45 days of filing the petition unless a specific extension is granted or the period is shortened by the Administrative Law Judge for good cause or in an emergency situation.

(f) The local or state agency shall inform the legally responsible person or advocate of the right to representation by counsel and of any free or low-cost legal or other relevant services available in the area.

(g) During the pendency of any administrative or judicial proceeding regarding a dispute governed by these Rules, unless the local or state agency and the legally responsible person agree otherwise, the child involved in the dispute must remain in present services.

Authority G.S. 122C-3; 122C-112; 122C-194.

.0219 ADMINISTRATIVE REVIEW BY REVIEW OFFICER

(a) Appeal to Review Officer: Any party to an administrative review proceeding may appeal the decision of the administrative law judge to an impartial Review Officer as specified in G.S. 122C-199. Notice of the appeal shall be directed to the Division Director.

(b) Review Officer Pool: The Director shall establish a pool of individuals approved to serve as Review Officers for appeals of Youth Behavioral Services Client decisions. The list of approved Review Officers in the pool and their qualifications shall be made available on request. Review Officers shall meet the following qualifications:

- (1) Review Officers shall be professionals in the fields of education, mental health, social services, law, or medicine, or shall be qualified by relevant education and experience, and shall have background in or knowledge about the eligibility criteria for Youth Behavioral Services Clients.
- (2) Review Officers shall have experience in, or receive training in, the conduct of administrative hearings.
- (3) Review Officers may not be employees or officials of either the Department of Human Resources, the Department of Public Instruction, the Office of the Governor, or of any agency involved in the care of the minor who is the subject of the case. A person is not disqualified as an employee merely because he or she is paid by the agency to serve as a Review Officer.
- (4) Review Officers shall disqualify themselves in cases of personal or professional conflicts of interest or in cases where substantial portions of their income are derived through contractual arrangements with an involved agency.

(c) Conduct of Review:

- (1) Upon selection of a Review Officer, the agency shall forward the hearing record to the Review Officer.
- (2) The Review Officer shall review the entire hearing record and determine whether:
 - (A) the procedures at the contested case hearing were consistent with the requirements of the Administrative Procedures Act;
 - (B) to conduct an additional hearing in accordance with the procedures set forth in this Paragraph; and
 - (C) in the discretion of the hearing officer, to afford the parties oral or written argument.
- (3) If the Review Officer determines that new evidence would be material to the issues, not merely cumulative, and could not reasonably have been presented at the contested case hearing, he shall conduct a hearing to receive additional evidence.
- (4) If the Review Officer determines to afford the parties oral or written argument, he shall notify them of the timing and parameters of the argument. The provisions of G.S. 150B with respect to the reception of evidence shall apply.
- (5) Upon completion of review, the Review Officer will issue a written decision, including findings of fact and conclusions of law. Such decision shall be issued as soon as practical but not more than 45 days of the institution of the appeal provided in Paragraph (a) of this Rule. The Review Officer will serve a copy of the decision on each party, with copies to the attorneys of record, and shall include with it the notice required by G.S. 122C-199 informing the parties of their right to file a civil action and the 30-day limitation for filing such an action.

Authority G.S. 122C-3; 122C-112; 122C-194.

TITLE 12 - DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Alarms Systems Licensing Board intends to amend rule cited as 12 NCAC 11 .0202. Notice of Rule-making Proceedings was published in the Register on March 15, 1996.

Proposed Effective Date: April 1, 1997

A Public Hearing will be conducted at 2:00 p.m. on November 4, 1996 at the SBI Complex, Building 12, 3320 Old Garner Road, Raleigh, NC 27626.

Reason for Proposed Action: The Board wishes to amend this Rule to delete paragraph (c) in its entirety and require those engaged exclusively in monitoring and responding to

alarms to hold a full alarm systems business license as set forth in the statute.

Comment Procedures: Comments may be presented orally or in writing at the hearing. Other written comments concerning this rule-making activity must be submitted no later than November 14, 1996 to: W.A. Hoggard, III, Administrator, NC Private Protective Services Board, 3320 Old Garner Road, Raleigh, NC 27626.

Fiscal Note: This Rule does not affect the expenditures or revenues of state or local government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 11 - N.C. ALARM SYSTEMS LICENSING BOARD

SECTION .0200 - PROVISIONS FOR LICENSEES

.0202 EXPERIENCE REQUIREMENTS FOR LICENSE

(a) Applicants for an alarm system license must meet the following minimum requirements which are additional to those specified in G.S. 74D:

- (1) Establish to the Board's satisfaction two year's experience within the past five years in alarm systems installation, service, or alarm systems business management; or
- (2) Successfully pass an oral or written examination deemed by the Board to measure an individual's knowledge and competence in the alarm systems business.

(b) Any applicant who takes the examination administered by the Board under 12 NCAC 11 .0202(a)(2) and who does not successfully complete said examination after two attempts, must wait six months before being allowed to take the examination again.

~~(c) Applicants engaged exclusively in monitoring or responding to alarms may be issued a limited license which authorizes the performance of monitoring and responding functions only. Applicants for such a limited license shall not be required to meet the experience requirements of 12 NCAC 11 .0202(a).~~

Authority G.S. 74D-5.

TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to adopt rules cited as 15A NCAC 2B .0231 - .0236. Notice of Rule-making Proceedings was published in the Register on April 15, 1996.

Proposed Effective Date: August 1, 1998

A Public Hearing will be conducted at 7:00 p.m. on November 12, 1996 in Raleigh, at the State Highway Building; November 14, 1996, in New Bern, at the Craven County Courthouse; November 19, 1996, in Goldsboro, at the High School Auditorium, and November 21, 1996, in Kinston, at the J.H. Sampson Elementary School Auditorium.

Reason for Proposed Action: This Notice of Text and Hearing announces a new set of public hearings to be held on the proposed Nutrient Sensitive Waters Management Strategy for the Neuse River Basin. The strategy and original set of public hearings were noticed in the North Carolina Register on August 15, 1996 (Volume 11:10, pages 824-838). Public hearings scheduled for early September 1996 were canceled due to damage from Hurricane Fran. This notice contains the new dates and locations for the rescheduled public hearings. No changes have been made to the proposed rules as a result of rescheduling the public hearings.

In 1988, the Environmental Management Commission (EMC) classified the entire Neuse River Basin as Nutrient Sensitive Waters (NSW). They adopted this classification due to nutrient-related water quality problems in the freshwater sections between Kinston and New Bern. At that time, the EMC adopted a Nutrient Management Strategy to improve water quality in the river. This initial NSW strategy addressed phosphorus reductions through point source controls and nitrogen from the voluntary implementation of agricultural best management practices (BMPs). The strategy was successful and phosphorus loading has declined due to these point source controls and the phosphate detergent ban.

Even with the management measures adopted in the initial NSW strategy, water quality problems in the lower Neuse River continue, especially below New Bern. For example, during July, September, and October 1995, widespread fish kills occurred in the Neuse River, mainly from New Bern to Minnesott Beach. Millions of fish were killed. The water was lacking oxygen near the surface and algal blooms were common. Because of these continued water quality problems, the EMC intends to revise the NSW strategy and to focus on nitrogen loading to the estuary. Rules are proposed for the following components:

- Wastewater Discharge Requirements (15A NCAC 2B .0231),
- Illegal Discharges Management Plan (15A NCAC 2B .0232),
- Stormwater Management (15A NCAC 2B .0233),
- Animal Waste Management (15A NCAC 2B .0234),*
- Buffers (15A NCAC 2B .0235), and
- Nutrient Management (15A NCAC 2B .0236).

* Two alternatives are being proposed for animal waste management. The EMC approved these two alternatives for

public hearing before the 1996 North Carolina General Assembly adjourned. During the 1996 session, a bill (Senate Bill 1217) was ratified that establishes a permitting and inspection program for animal operations. The requirements of SB 1217 will render the proposed rule alternatives for animal operations unnecessary. Any animal waste management rules that the EMC adopts as part of the NSW strategy for the Neuse River will reflect the requirements of Senate Bill 1217. Briefly, SB 1217 will require a permitting program using general and individual permits for animal operations based on size of operation.

Comment Procedures: The purpose of the announcement is to encourage those interested in this proposal to provide comments. You may submit comments, statements, data and other information in writing prior to, during or after the hearing but no later than 12/16/96. You may also present verbal comments at the hearing. The Hearing Officer may limit the length of time that you speak so that all those who wish to speak may have an opportunity to do so. We encourage you to submit written comments. It is very important that all interested and potentially affected persons or parties make their views known to the Environmental Management Commission (EMC) whether in favor of or opposed to any and all provisions of the proposal being noticed. If opposed to any or all provisions of the proposal we encourage you to offer appropriate alternative proposals. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in the North Carolina Register unless the EMC publishes the text of the proposed different rule and accepts comments on the new text. (See 150B-21.2(g). Written comments may be submitted to: David Harding, DEHNR/Division of Water Quality, PO Box 29535, Raleigh, NC 27626-0535, (919) 733-5083, extension 569. Questions concerning proposed requirements for point source dischargers may be directed to Coleen Sullins at (919) 733-5083, ext. 550 and questions concerning proposed nonpoint source requirements to David Harding at (919) 733-5083, ext. 569.

Fiscal Note: 15A NCAC 2B .0231 - This Rule does affect the expenditures or revenues of state and local government funds. This Rule does have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

15A NCAC 2B .0232 - .0233 - These Rules do affect the expenditures or revenues of local government funds.

15A NCAC 2B .0236 - This Rule does affect the expenditures or revenues of local government funds.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO

SURFACE WATERS AND WETLANDS OF
NORTH CAROLINA

.0231 NEUSE RIVER BASIN - NUTRIENT
SENSITIVE WATERS MANAGEMENT
STRATEGY: WASTEWATER DISCHARGE
REQUIREMENTS

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the 30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) classification, 15A NCAC 2B .0223. The management requirements for the Neuse River Basin are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the wastewater discharge management strategy for the Neuse River Basin:

- (1) All new and expanding dischargers will be required to document that all practical alternatives to surface waters discharge were employed pursuant to 15A NCAC 2B .0201(c)(1).
- (2) All wastewater dischargers greater than or equal to 0.5 MGD permitted flow regardless of current loading levels are required to evaluate and optimize the operation of their facilities in order to reduce nutrient loadings. One year after the effective date of this Rule, a report shall be submitted to the Division documenting the efforts/level of reductions achieved.
- (3) No new domestic wastewater discharges to surface waters of less than 0.5 MGD shall be permitted. Proposed domestic wastewater dischargers to surface waters that request a permit for 0.5 MGD or greater shall be required to justify flows based on full build out of the site. No phasing of less than 0.5 MGD will be allowed for construction of the wastewater treatment plants. Existing municipal dischargers shall be exempt from this Sub-Item after it is shown that no alternative to discharge exists pursuant to 15A NCAC 2B .0201(c)(1). Flows permitted by February 1, 1996 are also not affected.
- (4) All dischargers within the basin below Falls Lake Dam will have the option of forming a coalition (hereafter referred to as the "Association") to implement nutrient reduction through a nutrient trading program.
 - (a) For dischargers that join the Association,

an agreement will be drafted between the Division and the Association that includes, but is not limited to the following: membership in Association, final loading targets based on a 30 percent reduction of calendar year 1995 nitrogen loads from the membership within five years of the effective date of this Rule, payment schedule for BMPs in years loading targets are not met, monitoring requirements for Association members, and the credit life of BMPs. No Association exists, for the purposes of this Rule, until the Agreement is formally approved by the Commission. All existing Association dischargers that have a permitted flow greater than or equal to 0.5 MGD and any new or expanding Association dischargers will receive a quarterly average total phosphorus limit of 2 mg/l in their NPDES permits.

- (b) For dischargers that do not join the Association and dischargers above Falls Lake Dam, the following requirements apply:
 - (i) All existing municipal and domestic dischargers greater than or equal to 0.5 MGD below Falls Lake Dam must meet a monthly average total nitrogen limit of 6 mg/l within five years from the effective date of this Rule. These facilities must meet a quarterly average total phosphorus limit of 2 mg/l. More stringent limits may apply to protect localized areas.
 - (ii) All existing facilities above Falls Lake Dam with permitted flows greater than or equal to 0.05 MGD will be required to meet a quarterly average total phosphorus limit of 2 mg/l. More stringent limits may apply to protect localized areas.
 - (iii) All proposed new industrial and new and expanding domestic or municipal wastewater dischargers, where discharge is the only environmentally and economically feasible option, must comply with a monthly average total nitrogen limit of 6 mg/l and a monthly average total phosphorus limit of 1 mg/l. More stringent limits may be given to protect localized areas.
 - (iv) Existing industrial process wastewater dischargers below Falls Lake Dam and expanding industrial process wastewater dischargers within the basin will be evaluated by

- the Division on an individualized basis. The industries within the management area will be required to control total nitrogen to the best available technology levels applicable to the specific wastestream. For the purposes of this strategy, the definition of best available technology will be required to be individually developed for each facility. A report must be submitted and approved by the Division of Water Quality within two years of the effective date of this Rule which outlines best available technology for their particular site. All existing industrial process wastewater dischargers below Falls Lake Dam with a permitted flow of 0.5 MGD or greater will receive a quarterly average total phosphorus limit of 2 mg/l. Expanding industrial process wastewater dischargers in the basin will receive a monthly average total phosphorus limit of 1mg/l. More stringent limits may apply to protect localized areas.
- (v) All new and expanding wastewater dischargers will be required to offset their additional nutrient loads by funding nonpoint source control programs approved by the Division of Water Quality. Nitrogen and phosphorus loads shall be offset at the rate of 110 percent of the cost to implement BMPs designed to reduce that same loading created by the new or expanding discharge.
- (c) If no Association of dischargers is formed, the following requirements will apply to dischargers in the Neuse River Basin:
- (i) All existing municipal and domestic dischargers greater than or equal to 0.5 MGD below Falls Lake Dam must meet a monthly average total nitrogen limit of 6 mg/l within five years from the effective date of this Rule. These facilities must meet a quarterly average total phosphorus limit of 2 mg/l. More stringent limits may apply to protect localized areas.
- (ii) All existing facilities above Falls Lake Dam with permitted flows greater than or equal to 0.05 MGD will be required to meet a quarterly average total phosphorus limit of 2 mg/l. More stringent limits may apply to protect localized areas.
- (iii) All proposed new industrial and new and expanding domestic or municipal wastewater dischargers, where discharge is the only environmentally and economically feasible option, must comply with a monthly average total nitrogen limit of 6 mg/l and a monthly average total phosphorus limit of 1 mg/l. More stringent limits may be given to protect localized areas.
- (iv) Existing industrial process wastewater dischargers below Falls Lake Dam and expanding industrial process wastewater dischargers within the basin will be evaluated by the Division on an individualized basis. The industries within the management area will be required to control total nitrogen to the best available technology levels applicable to the specific wastestream. For the purposes of this strategy, the definition of best available technology will be required to be individually developed for each facility. A report must be submitted and approved by the Division of Water Quality within two years of the effective date of this Rule which outlines best available technology for their particular site. All existing industrial process wastewater dischargers below Falls Lake Dam with a permitted flow of 0.5 MGD or greater will receive a quarterly average total phosphorus limit of 2 mg/l. Expanding industrial process wastewater dischargers in the basin will receive a monthly average total phosphorus limit of 1 mg/l. More stringent limits may apply to protect localized areas.
- (v) All new and expanding wastewater dischargers will be required to offset their additional nutrient loads by funding nonpoint source control programs approved by the Division. Nitrogen and phosphorus loads shall be offset at the rate of 110 percent of the cost to implement BMPs designed to reduce that same loading created by the new or expanding discharge.

Authority G. S. 143-214.1; 143-215; 143-215.1; 143-215.3(a)(1).

.0232 NEUSE RIVER BASIN - NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: ILLEGAL DISCHARGES MANAGEMENT PLAN

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the 30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) classification, 15A NCAC 2B .0223. The management requirements for the Neuse River Basin are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the illegal discharges management strategy for the Neuse River Basin:

All municipalities having a population of 5,000 or greater must begin the process of adopting a plan to address illegal discharges. Draft plans shall be submitted within two years of the effective date of this Rule for approval by the Division. The plan must be implemented within five years after the effective date of this Rule. At the end of the five year time period local government must submit to the Division a report that addresses the local implementation program's progress of removing existing illegal discharges, prevention of additional illegal discharges and an on-going inspection program of the storm drainage system to ensure prevention and continued removal of illegal discharges.

Authority G. S. 143-214.1; 143.214.7; 143-215.1; 143-215.3(a)(1).

.0233 NEUSE RIVER BASIN - NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: STORMWATER MANAGEMENT

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the

30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) classification, 15A NCAC 2B.0223. The management requirements for the Neuse River Basin are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the stormwater management strategy for the Neuse River Basin:

Option 1:

(1) Development activities which require a Sedimentation/Erosion Control Plan in accordance with G.S. 113A-57, except those development activities within the 20 coastal counties as defined in 15A NCAC 2H .1002(4), those areas affected by a WS-I, WS-II, WS-III, WS-IV, ORW or HQW classification since these areas already have requirements for stormwater management are required, at a minimum, to meet the following stormwater management requirements:

(a) Low Density Option: Development activities shall be allowed pursuant to 15A NCAC 2H .1003(d)(1) if the development has:

- (i) built-upon area of 12 percent or less or proposes no more than one single family residential unit per one acre;
- (ii) stormwater runoff transported primarily by vegetated conveyance: conveyance system shall not include a discrete stormwater collection system as defined in 15A NCAC 2H .1002(18).

(b) High Density Option: Higher density developments shall be allowed pursuant to 15A NCAC 2H .1003(d)(2) if stormwater control systems meet the following criteria:

- (i) stormwater systems must be wet detention ponds or alternative stormwater management systems designed in accordance with 15A NCAC 2H .1008;
- (ii) control systems must be designed to control runoff from all surfaces generated by one inch of rainfall.

(2) Redevelopment is allowed if the rebuilding activity does not have a net increase in built-upon area or provide equal or greater stormwater control than the previous development, except that there are no restrictions on existing single family residential redevelopment. Expansions to structures classified as existing development must meet the requirements of this Rule; however, the built-upon surface area of the existing development is not required to be included in the built-upon area calculations. Expansions to structures other than

existing development must meet the built-upon area requirements of this Rule for the entire project site.

(3) Cluster development is allowed on a project-by-project basis as follows:

- (a) overall density of the project meets associated density or stormwater control requirements of this Rule;
- (b) buffers meet the minimum requirements of this Rule;
- (c) built-upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas; and maximize the flow length through vegetated areas;
- (d) areas of concentrated development are located in upland areas and, to the maximum extent practical away from surface waters and drainage ways;
- (e) remainder of tract to remain in vegetated or natural state;
- (f) area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement;
- (g) a maintenance agreement for the vegetated or natural area shall be filed with the Register of Deeds; and
- (h) cluster development that meets the applicable low density option requirements shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.

Option 2:

- (1) In order to address pollutants in stormwater runoff associated with development activities within the Neuse River Basin, a stormwater management program will be established within those areas of the Neuse River Basin that are not within the 20 coastal counties as defined in 15A NCAC 2H .1002(4), and those areas affected by a WS-I, WS-II, WS-III, WS-IV, ORW or HQW classification as of the effective date of this Rule. Development activities within the 20 coastal counties as defined in 15A NCAC 2H .1002(4), and those areas affected by a WS-I, WS-II, WS-III, WS-IV, ORW or HQW classification are already administering a stormwater management program and are exempt from the following requirements. However, for areas within the Neuse River Basin that are not within the 20 coastal county defined area or are not affected by a WS-I, WS-II, WS-III, WS-IV, ORW and HQW

classification, then development activities are required to have appropriate stormwater management programs in place within three years following the effective date of this Rule.

(2) A stormwater management program may be attained by meeting one of the following:

- (a) All local governments with land use jurisdiction in those portions of the Neuse River Basin not otherwise subject to state stormwater management requirements have the option of participating collectively with the Division to review, develop, and establish a Neuse River Basin Stormwater Management Plan. This plan will establish the minimum requirements for the Stormwater Management Program which will include, but not be limited to: land use planning development density control measures, protection of sensitive surface waters and resources, use of stormwater management control devices, water quality educational programs and an implementation and compliance strategy. The final collective plan and management program must be approved by the Commission within two years following the effective date of this Rule. Following the Commission's approval of the Neuse River Basin Stormwater Management Plan, a local government may request that the Commission delegate authority to the local government to implement the plan; or

- (b) If a local government fails to request that the Commission delegate authority to the local government to implement their portion of the collective plan within their jurisdiction then the Division will, at a minimum, implement the following stormwater management requirements:

- (i) Low Density Option: Development activities shall be allowed pursuant to 15A NCAC 2H .1003(d)(1) if the development has:

- (A) built-upon area of 24 percent or less or proposes no more than one single family residential unit per one-half acre;
- (B) stormwater runoff transported primarily by vegetated conveyances; conveyance system shall not include a discrete stormwater collection system as defined in 15A NCAC 2H .1002(18).

- (ii) High Density Option: Higher density developments shall be allowed pursuant to 15A NCAC 2H.1003(d)(2)

if stormwater control systems meet the following criteria:

(A) stormwater systems must be wet detention ponds or alternative stormwater management systems designed in accordance with 15A NCAC 2H .1008;

(B) control systems must be designed to control runoff from all surfaces generated by one inch of rainfall.

(3) Redevelopment is allowed if the rebuilding activity does not have a net increase in built-upon area or provides equal or greater stormwater control than the previous development, except that there are no restrictions on existing single family residential redevelopment. Expansions to structures classified as existing development must meet the requirements of Sub-Item (1)(b) of this Rule; however, the built-upon surface area of the existing development is not required to be included in the built-upon area calculations. Expansions to structures other than existing development must meet the built-upon area requirements of Sub-Item (a)(ii) of this Rule for the entire project site.

(4) Cluster development is allowed on a project-by-project basis as follows:

- (a) overall density of the project meets associated density or stormwater control requirements of this Section;
- (b) buffers meet the minimum requirements of this Rule;
- (c) built-upon areas are designated and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas; and maximize the flow length through vegetated areas;
- (d) areas of concentrated development are located in upland areas and, to the maximum extent practical, away from surface waters and drainways;
- (e) remainder of tract to remain in vegetated or natural state;
- (f) area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement;
- (g) a maintenance agreement for the vegetated or natural area shall be filed with the Register of Deeds; and
- (h) cluster development that meets the applicable low density option requirements shall

transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.

Authority G. S. 143-214.1; 143-214.7; 143.215.1; 143-215.3(a)(1).

.0234 NEUSE RIVER BASIN - NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: ANIMAL WASTE MANAGEMENT

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the 30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) classification, 15A NCAC 2B .0223. The management requirements are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the animal waste management strategy for the Neuse River Basin:

Option 1:

(1) Animal waste management systems, as defined in 15A NCAC 2H .0203(3), shall require a permit, pursuant to 15A NCAC 2H .0217 and 2H .0203(4), from the Division as follows:

- (a) Systems considered deemed permitted:
 - (i) swine systems designed for less than 500 animals;
 - (ii) cattle systems designed for less than 250 animals;
 - (iii) poultry systems (liquid systems) designed for less than 75,000 birds; and
 - (iv) poultry systems (dry litter operations) which meet the criteria of 15A NCAC 2H .0217.
- (b) Systems permitted under General Permit [15A NCAC 2H .0217 (b)]:
 - (i) swine systems designed for 500 animals up to 4,999 animals;
 - (ii) cattle systems designed for 250 animals up to 999 animals; and
 - (iii) poultry systems (liquid systems) designed for 75,000 birds up to 149,999 birds.
- (c) Systems permitted under individual permits:
 - (i) swine systems designed for 5,000 or

- more animals;
- (ii) cattle systems designed for 1,000 or more animals; and
- (iii) poultry systems (liquid systems) designed for 150,000 birds or more.
- (d) The Director may determine that a system should not be deemed to be permitted in accordance with Rule 15A NCAC 2H .0217 and require the system to obtain a general or an individual nondischarge permit. This determination shall be made based on existing or projected environmental impacts.
- (e) The Director may determine that a system should not have a general permit and require the system to obtain an individual nondischarge permit. This determination shall be made based on existing or projected environmental impacts.
- (2) A 25 foot setback is required along all open drainage ditches for spraying and land application of animal waste.

Option 2:

- (1) Animal waste management systems, as defined in 15A NCAC 2H .0203(3), shall require a permit, pursuant to 15A NCAC 2H .0217 and 2H .0203(4), from the Division as follows:
 - (a) Systems considered deemed permitted:
 - (i) swine systems designed for less than 250 animals;
 - (ii) cattle systems designed for less than 100 animals;
 - (iii) poultry systems (liquid systems) designed for less than 30,000 birds; and
 - (iv) poultry systems (dry litter operations) which meet the criteria of 15A NCAC 2H .0217.
 - (b) Systems permitted under General Permit [15A NCAC 2H .0217 (b)]:
 - (i) swine systems designed for 250 or more animals;
 - (ii) cattle systems designed for 100 or more animals; and
 - (iii) poultry systems (liquid systems) designed for 30,000 or more birds.
 - (c) The Director may determine that a system should not be deemed to be permitted in accordance with Rule 15A NCAC 2H .0217 and require the system to obtain a general permit under Sub-Item (vi)(B) of this Rule or an individual nondischarge permit. This determination shall be made based on existing or projected environmental impacts.
 - (d) The Director may determine that a system should not have a general permit under

Sub-Item (vi)(B) of this Rule and require the system to obtain an individual nondischarge permit. This determination shall be made based on existing or projected environmental impacts.

- (2) A 25 foot setback is required along all open drainage ditches for spraying and land application of animal waste.

Authority G. S. 143-214.1; 143-215.1; 143-215.3(a); 143-215.10C.

.0235 NEUSE RIVER BASIN: NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: BUFFERS

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the 30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) classification, 15A NCAC 2B .0223. The management requirements for the Neuse River Basin are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the management strategy for buffers in the Neuse River Basin:

Option 1:

- (1) A forested riparian buffer in accordance with Sub-Items (2)(a)-(e) of this Rule is required on both sides of perennial and intermittent surface waters in the Neuse River Basin. Exceptions to the requirements of this Rule are described in Sub-Items (1)(e)(i-ix) of this Rule. Design and installation of the buffer should be such that, to the maximum extent possible, sheet flow of surface water is achieved. Any activities that would result in water quality standard violations or shall disrupt the structural or functional integrity of the buffer are prohibited. The following criteria will be used to determine which waterbodies are subject to the buffer requirement:
 - (a) Surface waters indicated as "blue lines" on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute quadrangle) topographic maps are subject to the buffer requirements. Waterbodies subject to the buffer requirements include perennial and intermittent streams, canals and other manmade drainage conveyances, lakes, and

- estuaries.
- (b) In instances where the U.S.G.S. 1:24,000 scale (7.5 minute quadrangle) topographic maps inaccurately depict streams or other water conveyance channels or ditches, the following descriptive criteria shall be used to determine where a buffer is required:
 - (i) All perennial and intermittent streams which have a defined stream channel formed through concentration of runoff are subject to the buffer requirement.
 - (ii) Channelized or otherwise modified natural streams are subject to the buffer requirement.
 - (iii) Ditches or manmade conveyances which under normal conditions receive drainage waters from one or more tributary ditches, canals, or streams are subject to the buffer requirement unless exempted through the use of water control structures and nutrient management as described in Sub-Item (e)(vi).
 - (c) The Environmental Management Commission may provide a matrix of options for landowners to achieve equivalent water quality protection through alternative Best Management Practices which account for regional variations in soil types and topography.
 - (d) The Directors of the Division of Water Quality, Division of Soil and Water Conservation, Natural Resources Conservation Service, and Cooperative Extension Service shall appoint an advisory committee to make site-specific determinations of where the buffer requirements apply and alternatives for providing equivalent protection. The committee shall be consulted when the methods of determination described above are inadequate for a particular site. Landowners and consultants are allowed to propose site-specific determinations for review by the appointed committee.
 - (e) The following waterbodies and land uses are exempt from the buffer requirement:
 - (i) Ditches or manmade conveyances other than modified natural streams which under normal conditions do not receive drainage waters from any tributary ditches, canals, or streams, unless the ditch or manmade conveyance delivers runoff directly to waters classified in accordance with 15A NCAC 2B .0100.
 - (ii) Ditches or manmade conveyances other than modified natural streams which are used exclusively for drainage of silvicultural land or naturally forested areas. All forest harvesting operations shall be in compliance with North Carolina's Forest Practices Guidelines Related to Water Quality.
 - (iii) Ponds and lakes created for animal watering, irrigation, or other agricultural uses that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100.
 - (iv) Development activities that have received an approved Sedimentation/Erosion Control Plan prior to the effective date of this Rule, and development activities for which a Sedimentation/Erosion Control Plan was not required but for which lots were platted and recorded prior to the effective date of this Rule are exempt. However, landowners are encouraged to meet the minimum buffer requirements of this Rule, and to maintain existing forested buffers to the maximum extent practical, without compromising the functions and integrity of any existing permanent structures and facilities.
 - (v) New development in the buffer shall be limited to water dependent structures as defined in 15A NCAC 2B .0202. Any structures shall be located, designed, constructed and maintained to provide maximum nutrient removal, to have the least adverse effects on aquatic life and habitat and to protect water quality.
 - (vi) Canals, ditches, and other drainage conveyances are exempt from the riparian buffer requirement if both water control structures with a water management plan and a nutrient management plan are implemented on the adjacent agricultural land according to the standards and specifications of the USDA - Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation Commission. The water control structures and nutrient management practices must provide equivalent protection and directly affect the land and waterbodies

- draining into the waterbody exempted from the buffer requirement. To the maximum extent practical, water control structures should be managed to maximize nitrogen removal throughout the year. Written approval from the local Soil and Water Conservation District must be obtained for the land certifying that appropriate nutrient management and water management plans have been developed. If the nutrient management plans and water management plans are not implemented then a buffer pursuant to this Section is required.
- (vii) Roads, bridges, stormwater management facilities, ponds, and utilities may be allowed where no practical alternative exists. These structures shall be located, designed, constructed, and maintained to have minimal disturbance, to provide maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of Best Management Practices.
- (viii) Stream restoration projects, scientific studies, stream gauging, water wells, passive recreation facilities such as boardwalks, trails, pathways, historic preservation and archaeological activities are permitted.
- (ix) Stream crossings associated with timber harvesting are permitted if performed in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209).
- (f) The following are modifications to the riparian forest buffer system.
- (i) On agricultural land where either water control structures with a water management plan, or a nutrient management plan is implemented according to the standards and specifications of the USDA - Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation Commission, then a 20-ft forested or a 30-ft vegetated buffer is required. The water control structures or nutrient management practices must provide equivalent protection and directly affect the land and waterbodies draining into the waterbody with a modified buffer requirement. To the maximum extent practical, water control structures should be managed to maximize nitrogen removal throughout the year.
- (ii) Periodic maintenance of drainage channels, canals, and ditches is allowed provided that disturbance is minimized and the structure and function of the buffer is not compromised. A grassed travelway is allowed on one or both sides of the waterbody when alternative forms of maintenance access are not practical. The width and specifications of the travelway shall be only that needed for equipment access and operation. The travelway should be located to maximize stream shading (i.e., located on the north and/or east side of the channel if possible). Channel and canal maintenance techniques may include the use of winches, backhoes, booms and logging skidders. Drag lines should only be used for large channels where less damaging maintenance techniques are not feasible. Any material removed from the channel shall be spread in a manner that does not compromise the water quality functions of the buffer and maintenance of appropriate vegetative cover.
- (iii) A vegetated buffer may be substituted for an equivalent width of forested buffer within 100 feet of tile drainage.
- (iv) Where the buffer requirements would result in an unavoidable loss of tobacco allotments [(7 CFR 723.220(c)) and the BMPs of controlled drainage or nutrient management are not in place, forest cover is required in Zone 1 only. The remaining 30 feet of the buffer must meet the requirements for Zone 3.
- (2) The buffer shall have three zones as follows:
- (a) Zone 1 begins at the normal waterline or at the upper edge of the active channel of the surface waterbody and extends landward a distance of 20 feet, measured horizontally on a line perpendicular to the waterbody. Dominant vegetation shall consist of exist-

ing or planted trees and shrubs with a dense ground cover. For those sites where forest vegetation does not exist, it is acceptable to allow the forest buffer to succeed naturally to a wooded state. Any plantings shall primarily consist of locally native trees and shrubs. Zone 1 is intended to remain in an undisturbed state, however the following practices and activities are allowed in Zone 1:

- (i) Selective removal of high value trees is allowed where water quality values are not compromised. Timber removal can contribute to removal of nutrients sequestered in stems and branches and maintain nutrient uptake and vigorous growth. Skidding of trees shall be directed away from the any water course or water body. Skidding shall be done in a manner to prevent creation of ephemeral channels perpendicular to the waterbody. Limited mechanized equipment is allowed in this area. Any tree removal must be performed in a manner that does not compromise the intended purpose of the buffer and is in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209);
 - (ii) Horticulture practices may be used to maintain the health of individual trees;
 - (iii) Individual trees may be removed which are in danger of causing damage to dwellings, other structures, or the stream channel; and
 - (iv) Other timber cutting techniques approved by the Department may be undertaken if necessary to prevent extensive pest or disease infestation.
- (b) Zone 2: begins at the outer edge of Zone 1 and extends landward a minimum of 20 feet as measured horizontally on a line perpendicular to the waterbody. The combined minimum width of Zones 1 and 2 shall be 40 feet. Dominant vegetation shall consist of existing or planted trees and shrubs with a dense ground cover. For those sites where forest vegetation does not exist it is acceptable to allow the forest buffer to succeed naturally to a wooded state. The following practices and activities are allowed in Zone 2 in addition to those allowed in Zone 1: Removal of tree and shrub products such as timber, nuts,

and fruit is permitted on a periodic and regular basis provided the intended purpose is not compromised by loss of vegetation or harvesting disturbance. A minimum of 40 percent canopy cover on a per acre basis must be maintained. Timber removal and skidding of trees shall be directed away from the water course or waterbody. Skidding shall be done in a manner to prevent creation of ephemeral channels perpendicular to the waterbody. Any tree removal must be performed in a manner that does not compromise the intended purpose of the buffer and is in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209). Forest vegetation may be managed to minimize shading on adjacent land if the water quality function of the buffer is not compromised;

- (c) Zone 3: begins at the outer edge of Zone 2 and extends landward a minimum of 10 feet as measured horizontally on a line perpendicular to the waterbody. The combined minimum width of Zones 1, 2 and 3 shall be 50 feet. Vegetation shall be composed of dense grasses and forbs or existing forest vegetation. Vegetation must consist of a dense ground cover and be maintained in a vigorous condition. Residential and commercial lawns meet the Zone 3 requirements as long as they are maintained and protected in accordance with these specifications. If existing woodland extends beyond the minimum 50 foot buffer width, the existing forest vegetation may be used to meet the Zone 3 width requirement. However, a minimum 10 foot managed grass strip is recommended adjacent to agricultural fields with a slope greater than 2 percent. The following practices and activities are not allowed:
 - (i) New permanent structures;
 - (ii) New on-site sanitary sewage systems which use ground absorptions;
 - (iii) Activities that would result in water quality standards violations or shall disrupt the structural or functional integrity of the buffer are prohibited.
- (d) Operation and maintenance of Zones 1, 2 and 3 is required. The buffers should be inspected by the landowner periodically and immediately following severe storms for evidence of sediment deposit, erosion or concentrated surface flow channels. Sheet flow must be maintained through dispersing concentrated flows, periodic reshaping of

earth structures, removal or grading of accumulated sediment, or re-establishment of vegetation to maintain effectiveness of the buffer. Prompt corrective action must be taken by the landowner to stop erosion and restore sheet flow.

- (e) Removal or disturbance of vegetation or groundcover inconsistent with erosion control and buffering objectives is not allowed within the buffer.
- (3) The buffer shall be established on agricultural land within two years of the effective date of this Rule.
- (4) Where the standards and management requirements for forest buffers are in conflict with other laws, regulations, permits and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, forest harvesting, surface mining, land disturbance activities, development in Coastal Area Management Act Areas of Environmental Concern, or other environmental protection areas, the more protective shall apply so long as they are in effect. If other standards and requirements which provide equal or better protection than the forested buffer are no longer in effect then the buffer requirements of this Rule shall apply.
- (5) Local government programs approved by the Director of the Division of Water Quality may be allowed to implement and manage the riparian buffer requirement within their jurisdictions.

Option 2:

- (1) A vegetated riparian buffer is required on both sides of perennial and intermittent surface waters in the Neuse River Basin. Exceptions to the requirements of this Rule are described in Sub-Items (1)(e)(i)-(ix). Design, installation, and maintenance of the buffer shall be such that, to the maximum extent practical, sheet flow of surface water is achieved. Any activities that will result in water quality standard violations or impair the structural or functional integrity of the buffer are prohibited. The following criteria will be used to determine which waterbodies are subject to the buffer requirement:
 - (a) Surface waters indicated as "blue lines" on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute quadrangle) topographic maps are subject to the buffer requirements. Waterbodies subject to the buffer requirements include perennial and intermittent streams, canals and other manmade drainage conveyances, lakes, and estuaries.
 - (b) In instances where the U.S.G.S. 1:24,000 scale (7.5 minute quadrangle) topographic maps inaccurately depict streams or other water conveyances, channels or ditches, the

following descriptive criteria shall be used to determine where a buffer is required:

- (i) All perennial and intermittent streams which have a defined stream channel formed through concentration of runoff are subject to the buffer requirement.
- (ii) Channelized or otherwise modified natural streams are subject to the buffer requirement.
- (iii) Ditches or manmade conveyances which under normal conditions receive drainage waters from one or more tributary ditches, canals, or streams are subject to the buffer requirement unless exempted through the use of water control structures and nutrient management as described in Sub-Item (1)(e)(vi) of this Rule.
- (c) The Environmental Management Commission may provide a matrix of options for landowners to achieve equivalent water quality protection through alternative Best Management Practices which account for regional variations in soil types and topography.
- (d) The Directors of the Division of Water Quality, Division of Soil and Water Conservation, Natural Resources Conservation Service, and Cooperative Extension Service shall appoint an advisory committee to make site-specific determinations of where the buffer requirements apply and alternatives for providing equivalent protection. The committee shall be consulted when the methods of determination described above are inadequate for a particular site. Landowners and consultants are allowed to propose site-specific determinations for review by the appointed committee.
- (e) The following waterbodies and land use are exempt from the buffer requirement:
 - (i) Ditches or manmade conveyances other than modified natural streams which under normal conditions do not receive drainage waters from any tributary ditches, canals, or streams, unless the ditch or manmade conveyance delivers runoff directly to waters classified in accordance with 15A NCAC 2B .0100.
 - (ii) Ditches or manmade conveyances other than modified natural streams which are used exclusively for drainage of silvicultural land or naturally forested areas. All forest harvesting

- operations shall be in compliance with North Carolina's Forest Practices Guidelines Related to Water Quality.
- (iii) Ponds and lakes created for animal watering, irrigation, or other agricultural uses that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100.
 - (iv) Development activities that have received an approved Sedimentation/Erosion Control Plan prior to the effective date of this Rule, and development activities for which a Sedimentation/Erosion Control Plan was not required but for which lots were platted and recorded prior to the effective date of this Rule are exempt. However, landowners are encouraged to meet the minimum buffer requirements of this Rule, and to maintain existing forested buffers to the maximum extent practical, without compromising the functions and integrity of any existing permanent structures and facilities.
 - (v) New development in the buffer shall be limited to water dependent structures as defined in 15A NCAC 2B .0202(59). Any structures shall be located, designed, constructed and maintained to provide maximum nutrient removal, to have the least adverse effects on aquatic life and habitat and to protect water quality. Landowners are encouraged to maintain existing forested buffers to the maximum extent practical.
 - (vi) Canals, ditches, and other drainage conveyances are exempt from the riparian buffer requirement if both water control structures with a water management plan and a nutrient management plan are implemented on the adjacent agricultural land according to the standards and specifications of the USDA- Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation Commission. The water control structures and nutrient management practices must provide equivalent protection and directly affect the land and waterbodies draining into the waterbody exempted from the
- buffer requirement. To the maximum extent practical, water control structures should be managed to maximize nitrogen removal throughout the year. Written approval from the local Soil and Water Conservation District must be obtained for the land certifying that appropriate nutrient management and water management plans have been developed. If the nutrient management plans and water management plans are not implemented, then a buffer pursuant to this Section is required.
- (vii) Roads, bridges, stormwater management facilities, ponds, and utilities may be allowed where no practical alternatives exists. These structures shall be located, designed, constructed, and maintained to have minimal disturbance, to provide maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices.
 - (viii) Stream restoration projects, scientific studies, stream gauging, water wells, passive recreation facilities such as boardwalks, trails, pathways, historic preservation and archaeological activities are permitted.
 - (ix) Stream crossings associated with timber harvesting are permitted if performed in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201- .0209).
- (f) The following are modifications to the vegetated buffer system.
 - (i) On agricultural land where either a water control structure with a water management plan, or nutrient management plan is implemented according to the standards and specifications of the USDA - Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation Commission, then a 20-foot forested or a 30-foot vegetated buffer is required. The water control structures or nutrient management practices must provide equivalent protection and directly affect the

- land and waterbodies draining into the waterbody with a modified buffer requirement. To the maximum extent practical, water control structures should be managed to maximize nitrogen removal throughout the year.
- (ii) A 30-foot forested buffer may be substituted in lieu of the requirement for 50 feet of vegetated buffer. Dominant vegetation shall consist of existing or planted trees and shrubs with a dense ground cover. For those sites where forest vegetation does not exist, it is acceptable to allow the forest buffer to succeed naturally to a wooded state. Selective removal of tree and shrub products such as timber, nuts, and fruit is permitted provided the intended purpose is not compromised by loss of vegetation or harvesting disturbance.
- (iii) Periodic maintenance of drainage channels, canals, and ditches is allowed provided that disturbance is minimized and the structure and function of the buffer is not compromised. A grassed travelway is allowed on one or both sides of the waterbody when alternative forms of maintenance access are not practical. The width and specifications of the travelway shall be only that needed for equipment access and operation. The travelway should be located to maximize stream shading (i.e., located on the north and/or east side of the channel if possible). Channel and canal maintenance techniques may include the use of winches, backhoes, booms, and logging skidders. Drag lines should only be used for large channels where less damaging maintenance techniques are not feasible. Any material removed from the channel shall be spread in a manner that does not compromise the water quality functions of the buffer and maintenance of appropriate vegetative cover.
- (2) The vegetated buffer begins at the normal waterline or at the upper edge of the active channel of the surface waterbody and extends landward a distance of 50 feet, measured horizontally on a line perpendicular to the waterbody.
- (3) Vegetation shall be composed of dense grasses and forbs or forest vegetation. Vegetation must consist of a dense ground cover and be maintained in a vigorous condition. Lawns meet the buffer requirements as long as they are maintained and protected in accordance with these specifications. Landowners are encouraged to maintain existing forested buffers to the maximum extent practical. The following practices and activities are not allowed:
- (a) New permanent structures;
- (b) New on-site sanitary sewage systems which use ground absorption;
- (c) Removal or disturbance of vegetation or ground cover inconsistent with erosion control and buffering objectives is not allowed within the buffer.
- (4) Maintenance of buffers is required. Sheet flow must be maintained to the maximum extent practical through dispersing concentrated flows, periodic reshaping of earth structures, removal or grading of accumulated sediment, or re-establishment of vegetation to maintain effectiveness of the buffer. Corrective action should be taken by the landowner to stop erosion and restore sheet flow. Timber removal can contribute to removal of nutrients sequestered in stems and branches and to maintain nutrient uptake and vigorous growth. Skidding of trees shall be directed away from any water course or waterbody when practical. Skidding shall be done in a manner to prevent creation of ephemeral channels perpendicular to the waterbody. Any tree removal must be performed in a manner that does not compromise the intended purpose of the buffer and in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201- .0209).
- (5) The buffer shall be established on agricultural land within 2 years of the effective date of this Rule.
- (6) Where the standards and management requirements for vegetated buffers are in conflict with other laws, regulations, permits and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, forest harvesting, surface mining, land disturbance activities, development in Coastal Area Management Act Areas of Environmental Concern, or other environmental protection areas, the more protective shall apply so long as they are in effect. If other standards and requirements which provide equal or better protection than the vegetated buffer are no longer in effect, then the buffer requirements of this Rule shall apply.
- (7) Local government programs approved by the Director of the Division of Water Quality may be allowed to implement and manage the riparian buffer requirement within their jurisdictions.

Authority G. S. 143-214.1; 143-214.7; 143-215.3(a)(1).

.0236 NEUSE RIVER BASIN: NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: NUTRIENT MANAGEMENT

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the 30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) Classification, 15A NCAC 2B .0223. The management requirements for the Neuse River Basin are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the management strategy for nutrient management in the Neuse River Basin:

Option 1:

- (1) Nutrient management plans shall be developed and implemented within two years of the effective date of this Rule for the following areas:
 - (a) Cropland and pasture land under individual ownership or lease agreements where nutrients are applied and the land owned or leased is greater than or equal to 250 acres;
 - (b) Contiguous tracts of agricultural land under multiple ownership which together comprise a total area receiving nutrients of greater than or equal to 250 acres.
- (2) The plan shall meet the standards and specifications of the USDA - Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation Commission. The landowner is responsible for development of the nutrient management plan. Upon written agreement between the landowner and the leasee, responsibility and liability for proper development and implementation of the nutrient management plan may be transferred from the landowner to the leasee. The nutrient management plan along with supporting documents must be kept on-site. For agricultural land, written approval from the local Soil and Water Conservation District must be obtained for the land certifying that an appropriate nutrient management plan has been developed.

Option 2:

- (1) Nutrient management plans shall be developed and implemented within two years of the effective date

of this Rule for the following areas:

- (a) Cropland and pasture land under individual ownership or lease agreements where nutrients are applied and the land owned or leased is greater than or equal to 250 acres;
 - (b) Contiguous tracts of agricultural land under multiple ownership which together comprise a total area receiving nutrients of greater than or equal to 250 acres;
 - (c) Private and public recreational land where nutrients are applied to an area greater than or equal to 10 acres;
 - (d) Land receiving nutrients applied by commercial applicators.
- (2) Agricultural nutrient management plans shall meet the standards and specifications of the USDA - Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation Commission. The nutrient management plan along with supporting documents must be kept on-site. For agricultural land, written approval from the local Soil and Water Conservation District must be obtained for the land certifying that an appropriate nutrient management plan has been developed. The landowner is responsible for development of the nutrient management plan except for turfgrass and non-agricultural areas receiving nutrients applied by commercial applicators. Upon written agreement between the landowner and the leasee, responsibility and liability for proper development and implementation of the nutrient management plan may be transferred from the landowner to the leasee. The commercial applicators shall be responsible for developing generic nutrient management plans for varying turfgrass and horticultural application scenarios. The standards and specifications of nutrient management plans for turfgrass, horticultural, and non-agricultural application of nutrients shall be developed and approved by the Division of Water Quality in consultation with the Natural Resources Conservation Service, the Division of Soil and Water Conservation, the North Carolina Department of Agriculture, and the Cooperative Extension Service.

Authority G. S. 143-214.1; 143-214.7; 143-215.3(a)(1).

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Commission intends to amend rules cited as 15A NCAC 10F .0302 and .0307. Notice of Rule-making Proceedings for Rule .0302 was published in the Register on June 3, 1996. Notice of Rule-making Proceedings for Rule .0307 was published in

the Register on July 15, 1996.

Proposed Effective Date: March 2, 1997

A Public Hearing will be conducted at 10:00 am on November 4, 1996 at the Archdale Building, Wildlife Conference Room, 512 N. Salisbury Street, Raleigh, NC 27604.

Reason for Proposed Action: 15A NCAC 10F .0302 - Amend rule to regulate boat speeds in congested areas by establishing no-wake zones/Town of Atlantic Beach, Hoop Pole Creek.

15A NCAC 10F .0307 - Establish no wake zone on Lake Norman in Iredell County.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearings. In addition, the record of hearing will be open for receipt of written comments from October 15, 1996 through November 14, 1996. Such written comments must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 North Salisbury Street, Raleigh, NC 27604-1188.

Fiscal Note: These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

.0302 ATLANTIC BEACH

(a) Regulated Areas. This Rule applies to the ~~waters of the canals within the subdivisions of Atlantic Beach Isles and Sound View Isles within the town limits of Atlantic Beach and to the waters of Bogue Sound from the east side of Channel Bay Mobile Home Park running westerly to the west side of North Shore Mobile Home Park extending 55 yards from the shore.~~ following waters in Atlantic Beach:

- (1) the waters of the canals within the subdivisions of Atlantic Beach Isles and Sound View Isles within the town limits of Atlantic Beach;
- (2) the waters of Bogue Sound from the east side of Channel Bay Mobile Home Park running westerly to the west side of North Shore Mobile Home Park extending 55 yards from the shore;
- (3) the waters of Bogue Sound extending 50 yards on each side of the entrance of Hoop Pole Creek Bay and 50 yards on each side of the four boat ramps in Hoop Pole Creek Bay;

- (4) the waters of Bogue Sound beginning at day markers #3PA and #4PA at the entrance going into 8 1/2 Marina and run 50 yards on either side of day marker #8PA and extending 50 yards on each side of the boat ramp at 8 1/2 Marina Village.

(b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed within any of the regulated areas identified in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Town of Atlantic Beach is designated as a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

.0307 CATAWBA: IREDELL: LINCOLN AND MECKLENBURG COUNTIES

(a) Regulated Area. This Rule applies to Lake Norman which is located in the counties of Catawba, Iredell, Lincoln and Mecklenburg.

(b) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked boat launching area, bridge, dock, pier, marina, boat storage structure, or boat service area on the waters of Lake Norman.

(c) Speed Limit Near Parks: No person shall operate a vessel greater than no-wake speed within 50 yards of the following parks as designated by appropriate markers:

- (1) Jetton Park;
- (2) Brown's Cove Park.

(d) Specific Speed Zones: No person shall operate a vessel at greater than no-wake speed in the following designated waters:

- (1) the entire area of Bluff Point Cove;
- (2) that small cove north of the inlet of Hager Creek where McKendree Road and Kemp Road join.

(e) ~~(d)~~ Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked swimming area on the waters of Lake Norman.

(f) ~~(e)~~ Placement and Maintenance of Markers. Each of the boards of commissioners of the above-named counties is designated a suitable agency for placement and maintenance of navigational aids and regulatory markers of a general nature on the waters of Lake Norman within the boundaries of each respective county. Provided the said counties exercise their supervisory responsibility, they may delegate the actual process of placement or maintenance of such markers to some other agency, corporation, group, or individual.

With regard to marking the restricted zones described above, markers may be placed and maintained by the individuals using the protected areas and facilities in accordance with the Uniform Waterway Marking System and supplementary standards as set forth in Rule .0301(g)(1) to (8) of this Section.

(g) ~~(f)~~ Markers Reflecting County Regulation. Where any marker conforming or required to conform to the uniform system is placed in or near Lake Norman advising the public of the provisions of any local act or of county ordinances made under the authority of any local act and:

- (1) Such provisions are not within the enforcement jurisdiction of the Commission; and
- (2) The Commission has not passed regulations of an identical or closely similar nature to that of the provisions in question, such marker to be deemed in conformity with the uniform system must bear on it the legend "County Regulation" at such a place or at such places as needed to indicate which provisions are not enforceable by the Commission as a matter of state law.

(h) ~~(g)~~ Miscellaneous Restrictions. In addition to the acts prohibited by Paragraph (f) of Rule .0301 of this Section, it is unlawful to commit any such act with respect to any marker placed or erected under the authority of Chapter 1205 of the 1965 Session Laws of the State of North Carolina by any one of the above named counties or by them jointly.

Authority G.S. 75A-3; 75A-15; S.L. 1965, c. 1205.

The Codifier of Rules has entered the following temporary rule(s) in the North Carolina Administrative Code. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings unless this notice has been previously published by the agency.

**TITLE 15A - DEPARTMENT OF ENVIRONMENT,
HEALTH, AND NATURAL RESOURCES**

Rule-making Agency: NC Marine Fisheries Commission

Rule Citation: 15A NCAC 3M .0204, .0504

Effective Date: October 1, 1996

Findings Reviewed and approved by Julian Mann III

Authority for the rule-making: G.S. 113-134; 113-182; 113-221; 143B-289.4

Reason for Proposed Action: 15A NCAC 3M .0204 - House Bill 1077, ratified June 21, 1996, authorizes temporary rules to establish bag and size limits for striped bass. 15A NCAC 3M .0504 - House Bill 1077, ratified June 21, 1996, authorizes temporary rules to establish bag limits for spotted seatrout. The temporary rule filed effective September 1, 1996, contained an error which removed the size limit for spotted seatrout. This was a typographical error, was not included in the actions taken by the Marine Fisheries Commission, was not included in the authority granted by House Bill 1077, and would pose a threat to the welfare of this species if the immature fish can be taken.

Comment Procedures: Comments may be submitted in writing within 30 days after the date of publication in the North Carolina Register. Written comments may be submitted to Juanita Gaskill, APA Coordinator, PO Box 769, Morehead, NC 28557.

CHAPTER 3 - MARINE FISHERIES

SUBCHAPTER 3M - FINFISH

SECTION .0200 - STRIPED BASS

**.0204 SEASON, SIZE AND HARVEST LIMIT:
ATLANTIC OCEAN**

(a) It is unlawful to possess striped bass taken from the Atlantic Ocean less than ~~28 inches total length~~ the size limit as determined by the Atlantic States Marine Fisheries Commission in their Interstate Fisheries Management Plan for striped bass. The Fisheries Director shall issue proclamations necessary to bring North Carolina's size limit in compliance with the Interstate Fisheries Management Plan.

~~(b) It is unlawful to possess more than two striped bass per person per day taken from the Atlantic Ocean by hook and line.~~

(e) (b) It is unlawful to buy, sell, transport, or possess

striped bass from the Atlantic Ocean by any means except that the Fisheries Director may establish an open season at any time, and is further empowered to impose any or all of the following restrictions:

- (1) Specify number of days,
- (2) Specify areas,
- (3) Specify means and methods which may be employed in the taking,
- (4) Specify time period,
- (5) Limit the ~~quantity taken by commercial gear, and quantity, both commercially and recreationally, and~~
- (6) Provide for biological sampling of fish harvested.

History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.4;

Eff. January 1, 1991;

Amended Eff. March 1, 1996;

Temporary Amendment Eff. October 1, 1996.

SECTION .0500 - OTHER FINFISH

.0504 TROUT

(a) Spotted seatrout (speckled trout). It is unlawful to possess spotted seatrout less than 12 inches total length. The Fisheries Director may, by proclamation, specify the quantity for the taking of spotted seatrout by hook-and-line in order to comply with the management requirements incorporated in the Atlantic States Marine Fisheries Commission Fishery Management Plan for Spotted Seatrout.

(b) Weakfish (gray trout).

- (1) The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of weakfish by commercial gear:
 - (A) Specify areas.
 - (B) Specify seasons.
 - (C) Specify quantity.
 - (D) Specify means/methods.
 - (E) Specify size, but the minimum size shall not be greater than 12 inches total length.
- (2) The Fisheries may, by proclamation, in order to comply with the Atlantic States Marine Fisheries Commission Weakfish Management Plan, impose any or all of the following restrictions on the taking of weakfish by hook-and-line:
 - (A) Specify quantity,
 - (B) Specify size.

History Note: Authority G.S. 113-134; 113-182; 143B-289.4;

Eff. January 1, 1991;

Amended Eff. March 1, 1996; March 1, 1995; February 1,

1992;
Temporary Amendment Eff. September 1, 1996;
Temporary Amendment Eff. October 1, 1996.

TITLE 24 - INDEPENDENT AGENCIES

Rule-making Agency: *North Carolina Housing Finance Agency*

Rule Citation: *24 NCAC 1P .0101 - .0103; 0201 - .0203*

Effective Date: *October 1, 1996*

Findings Reviewed and approved by *Julian Mann III*

Authority for the rule-making: *G.S. 122A-5; 122A-5.1; 122A-5.13; Chapter 18, House Bill 53*

Reason for Proposed Action: *To implement the Adult Care Home, Group Home and Nursing Home Fire Protection Fund established by G.S. 122A-5.13. (Chapter 18, House Bill 53)*

Comment Procedures: *Written comments must be submitted to the APA coordinator within 60 days of the publication of this rule in the North Carolina Register. Comments should be sent to Stephanie Barnes-Simms at the North Carolina Housing Finance Agency, 3801 Lake Boone Trail, Raleigh, NC 27607-2926.*

CHAPTER 1 - N.C. HOUSING FINANCE AGENCY

SUBCHAPTER 1P - FIRE PROTECTION FUND

SECTION .0100 - GENERAL INFORMATION

.0101 PURPOSE

The rules in this Subchapter implement the Adult Care Home, Group Home, and Nursing Home Fire Protection Fund ("Fire Protection Fund") created by G.S. 122A-5.13.

History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.13;

Temporary Adoption Eff. October 1, 1996.

.0102 ELIGIBILITY

Principal sponsors or owners of a facility occupied by the elderly or developmentally disabled and licensed under G.S. 131D-2 and G.S. 131E-Article 6 shall be eligible to participate in the fire protection fund program.

History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.13;

Temporary Adoption Eff. October 1, 1996.

.0103 TYPES OF ASSISTANCE

(a) The North Carolina Housing Finance Agency shall use program funds to make loans secured by the facility and real property. Loans for smoke detection systems shall have an interest rate of 3%-6% and a maximum term of 10 years. Loans for sprinkler systems shall have an interest rate of 3% and a maximum term of 20 years. The interest rate for smoke detection system loans shall be determined based on the Fund's selection criteria as outlined in Rule .0202 of this Subchapter.

(b) The maximum loan amounts shall be calculated as defined in G.S. 122A-5.13.

(c) Loans shall be amortizing and secured by a note and deed of trust. These loan documents shall provide for the acceleration of the debt in the event that a facility becomes subject to a negative administrative action by the North Carolina Division of Facility Services or the United States Health Care Financing Administration.

(d) The North Carolina Housing Finance Agency shall charge a loan origination fee and a servicing fee to reimburse actual costs.

History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.13;

Temporary Adoption Eff. October 1, 1996.

SECTION .0200 - ADMINISTRATION

.0201 APPLICATION PROCEDURES

A request for proposals shall be published and other forms of public notice shall be used to solicit applications from eligible borrowers.

History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.13;

Temporary Adoption Eff. October 1, 1996.

.0202 SELECTION PROCEDURE

Applications for financial assistance shall be evaluated and selected using the following criteria in order to improve safety for the greatest number of vulnerable residents:

- (1) Financial need; and
- (2) Percentage of nonambulatory and disabled residents; and
- (3) Estimated economic life of the facility; and
- (4) Reliability of current fire protection systems and services; and
- (5) Degree to which proposed costs are below the program maximums per square foot; and
- (6) Receipt by the facility of any negative administrative action taken by the North Carolina Division of Facility Services or the United States Health Care Financing Administration.

History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.13;

Temporary Adoption Eff. October 1, 1996.

.0203 DISBURSEMENT OF FUNDS

Loan funds shall be disbursed on a reimbursement basis.
Loan funds shall not be disbursed until the installation of the
fire protection system has been approved by the Division of
Facility Services.

History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.13;

Temporary Adoption Eff. October 1, 1996.

*This Section includes the Register Notice citation to Rules approved by the Rules Review Commission (RRC) at its meeting of September 19, 1996 pursuant to G.S. 150B-21.17(a)(1) and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules are published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

These rules will become effective on the 31st legislative day of the 1997 Regular Session of the General Assembly or a later date if specified by the agency unless a bill is introduced before the 31st legislative day that specifically disapproves the rule. If a bill to disapprove a rule is not ratified, the rule will become effective either on the day the bill receives an unfavorable final action or the day the General Assembly adjourns. Statutory reference: G.S. 150B-21.3.

APPROVED RULE CITATION

**REGISTER CITATION TO THE
NOTICE OF TEXT**

15A	NCAC	10F	.0303	11:06	NCR 356
15A	NCAC	10F	.0310	11:06	NCR 356
15A	NCAC	10I	.0001 *	not required, G.S. 150B-21.5(b)	
15A	NCAC	13C	.0301 *	11:06	NCR 357
15A	NCAC	13C	.0303 *	11:06	NCR 357
15A	NCAC	13C	.0305 *	11:06	NCR 357
15A	NCAC	13C	.0307 *	11:06	NCR 357
15A	NCAC	13C	.0308 *	11:06	NCR 357
17	NCAC	01C	.0504 *	not required, G.S. 150B-1(d)	
17	NCAC	01C	.0506 *	not required, G.S. 150B-1(d)	
19A	NCAC	02D	.1102 *	11:05	NCR 270
19A	NCAC	02D	.1108 *	11:05	NCR 270
19A	NCAC	02D	.1111 *	11:05	NCR 270
19A	NCAC	03E	.0501 *	11:07	NCR 405
19A	NCAC	03E	.0502 *	11:07	NCR 405
19A	NCAC	03E	.0510 *	11:07	NCR 405
19A	NCAC	03E	.0512 *	11:07	NCR 405
19A	NCAC	03E	.0513 *	11:07	NCR 405
19A	NCAC	03E	.0514 *	11:07	NCR 405
19A	NCAC	03E	.0515 *	11:07	NCR 405
19A	NCAC	03E	.0518 *	11:07	NCR 405
19A	NCAC	03E	.0519	11:07	NCR 405
19A	NCAC	03E	.0522 *	11:07	NCR 405
19A	NCAC	06B	.0412 *	11:05	NCR 270
21	NCAC	69	.0101	11:08	NCR 523
21	NCAC	69	.0103	11:08	NCR 523
21	NCAC	69	.0104	11:08	NCR 523
21	NCAC	69	.0201 *	11:08	NCR 523
21	NCAC	69	.0202	11:08	NCR 523
21	NCAC	69	.0301	11:08	NCR 523
21	NCAC	69	.0306 *	11:08	NCR 523
21	NCAC	69	.0308	11:08	NCR 523
21	NCAC	69	.0501 *	11:08	NCR 523

**TITLE 15A - DEPARTMENT OF ENVIRONMENT,
HEALTH, AND NATURAL RESOURCES**

**SUBCHAPTER 10I - ENDANGERED
AND THREATENED SPECIES**

**CHAPTER 10 - WILDLIFE RESOURCES
AND WATER SAFETY**

.0001 DEFINITIONS AND PROCEDURES
(a) ~~For the purposes of this Subchapter, the following~~

definitions shall apply:

- (1) ~~"Best available scientific evidence" is the existing biological, chemical, and physical data on the distribution, status, abundance, and population dynamics of a wild animal species and on the sufficiency or insufficiency of the biological and physical features of a critical habitat that have been collected and analyzed by competent biologists using objective, scientific methods.~~
- (2) ~~"Biological and physical features" are the known parameters and characteristics of a critical habitat necessary to sustain essential life processes of a wild animal species.~~
- (3) ~~"Conservation of a protected animal species" is defined by G.S. 113-331(1).~~
- (4) ~~"Conservation plan" shall be a written plan developed by the Wildlife Resources Commission using its resources and expertise in the biological and ecological sciences with input from other agencies that documents problems in the biological and physical features of a critical habitat and identifies possible remedies.~~
 - (A) ~~The conservation plan shall contain the best available scientific evidence that forms the basis for designation of the critical habitat and may contain recommended actions to be taken for special conservation, protection, and management of the critical habitat.~~
 - (B) ~~The conservation plan may contain more than one critical habitat if the threats to the habitats and the endangered and threatened wild animal species occupying them are similar.~~
 - (C) ~~The conservation plan shall be available for public review and comment.~~
- (5) ~~"Critical habitat" means any habitat essential to the conservation of a protected animal species listed as endangered or threatened in Rule .0003 or .0004 of this Subchapter.~~
 - (A) ~~Critical habitat shall include areas within the occupied or potential geographical range of a protected animal species or other critical areas that contain or impact the biological and physical features essential to the conservation of a protected animal species and for which special conservation, protection, and management actions may be required.~~
 - (B) ~~Critical habitat shall not include the entire occupied or potential geographical range of a protected animal species or all areas that impact upon a protected animal species unless the best available scientific evidence indicates that special conservation, protection, and management of the area or the entire range is essential to the conservation~~

~~of a protected animal species.~~

- (C) ~~Critical habitats designations shall be listed in this Subchapter and shall include an accurate description of the habitats and their boundaries, the endangered and threatened wild animal species occupying the habitats, and the reason and basis for designation.~~
- (6) ~~"Life processes" are those biological functions of a wild animal species essential to the health and survival of individual organisms and perpetuation of a wild animal species.~~
- (7) ~~"Protected animal" is defined in G.S. 113-331(5).~~
- (8) ~~"Special conservation, protection, and management" are measures that may be taken and restrictions that may be imposed necessary to preserve or restore the essential biological and physical features of a critical habitat.~~
- (9) ~~"Species" means the taxonomic grouping of wildlife, the sexually mature members of which interbreed and reproduce their own kind.~~
- (10) ~~"Wild animal" is defined in G.S. 113-331(10).~~
 - (b) ~~For the purposes of this Subchapter, the following procedures apply for the designation of critical habitat.~~
 - (1) ~~The Wildlife Resources Commission shall undertake designation of critical habitat with the advice and upon the recommendation of the Nongame Wildlife Advisory Committee and shall base any decision to designate critical habitat upon the best available scientific evidence.~~
 - (2) ~~Upon receiving the recommendation from the Nongame Wildlife Advisory Committee that designation of critical habitat is essential to the conservation of a protected animal species listed as endangered or threatened pursuant to Rule .0003 or .0004 of this Subchapter, and upon finding sufficient evidence in the recommendation to warrant further consideration of designation, the Wildlife Resources Commission shall publish in the North Carolina Register notice of public hearing and intent to designate the area as critical habitat.~~
 - (3) ~~At the time of publication of the notice of the public hearing on designation of critical habitat, the best available scientific evidence upon which the proposed designation is based shall be available for public review and shall be provided to other agencies.~~
 - (4) ~~The Wildlife Resources Commission shall base its decision to designate or not designate a critical habitat solely upon the best available scientific evidence and information in the record of the public hearing proceedings pertinent to the determination of whether or not the critical habitat is essential for the conservation of a protected animal species. Considerations related to the appropriateness or implementation of special~~

conservation, protection, and management actions which may be recommended in any subsequently developed conservation plan shall not bear upon the decision to designate or not designate a critical habitat.

- (5) ~~Following the designation of a critical habitat, the Wildlife Resources Commission shall invite representatives of interested governmental agencies with jurisdiction over measures and restrictions that could effect special conservation, protection, and management of the critical habitat to participate in development of a draft conservation plan for the listed critical habitat. Each governmental agency involved in development the draft conservation plan shall consider the range of impacts of proposed special conservation, protection, and management measures in the plan that come under its jurisdiction and that affect the public interest and shall address these impacts in the plan.~~
- (6) ~~Upon completion of the draft conservation plan, the Wildlife Resources Commission shall publish in the North Carolina Register notice of the availability of the draft conservation plan for public review and notice of public hearing to receive public comment on the appropriateness and various impacts of the conservation, protection, and management provisions of the draft conservation plan.~~
- (7) ~~The Wildlife Resources Commission and other governmental agencies contributing to the management and conservation strategy proposed for any designated critical habitat shall provide at the time of presentation of the conservation plan an opportunity for the public and any interested party to present pertinent information and comments about economic, social, ecological or other impacts that may result from implementation of special conservation, protection, and management measures recommended in the conservation plan.~~
- (8) ~~Each governmental agency affected by special conservation, protection, and management measures contained in the conservation plan for a critical habitat shall be invited to participate in the public hearing process, to consider the best available scientific evidence and the record of the public hearing proceedings, and to take appropriate actions under the agency's jurisdictional and procedural authorities.~~

History Note: Authority G.S. 113-132; 113-134; 113-331; 113-333; 113-334; 113-336; 143-239;

Eff. June 11, 1977;

Amended Eff. August 1, 1988;

RRC Objection due to lack of statutory authority Eff. August 18, 1994;

Amended Eff. October 1, 1994;

Repealed Eff. March 2, 1997.

CHAPTER 13 - SOLID WASTE MANAGEMENT

SUBCHAPTER 13C - INACTIVE HAZARDOUS SUBSTANCES AND WASTE DISPOSAL SITES

SECTION .0300 - VOLUNTARY REMEDIAL ACTION OVERSIGHT BY REGISTERED ENVIRONMENTAL CONSULTANTS

.0301 DEFINITIONS

Any word or phrase used in the rules in this Section which is defined in G.S. 130A, Article 9 shall have the meaning provided therein. The following words and phrases shall have the following meanings:

- (1) "Applicant" means an environmental consulting or engineering firm seeking Department approval to act as a Registered Environmental Consultant.
- (2) "Applicant RSM" means an individual proposed by an applicant to fill the role of Registered Site Manager.
- (3) "Registered Environmental Consultant" or "REC" means an environmental consulting or engineering firm approved to implement and oversee voluntary remedial actions pursuant to G.S. 130A-310.9(c).
- (4) "Registered Site Manager" or "RSM" means the key person or persons approved by the Department to manage all site activities and make certifications on behalf of the Registered Environmental Consultant in its role as consultant to responsible parties for implementation and oversight of a voluntary remedial action pursuant to G.S. 130A-310.9(c).
- (5) "Remediating Party" means any site owner, operator, or responsible party engaging in a voluntary remedial action pursuant to G.S. 130A-310.9(c).
- (6) "Request for Approval" means the application and qualifications documentation package which must be submitted by an environmental consulting or engineering firm to the Department so that the Department may determine an applicant's eligibility to operate as a Registered Environmental Consultant. The Department shall make available a format for submission of such information.
- (7) "Source Area" means any area of sludge, soil, sediment, or other solid medium contaminated by a release of one or more hazardous substances.
- (8) "Voluntary Remedial Action" is a remedial action as defined in G.S. 130A-310(7) conducted voluntarily by an owner, operator, or responsible party and undertaken with the approval of the Department pursuant to G.S. 130A-310.9(c).

History Note: Authority G.S. 130A-310.12(b);
Eff. April 1, 1997.

.0303 APPROVAL OF REGISTERED ENVIRONMENTAL CONSULTANTS

(a) To qualify for Department approval as an REC, an applicant shall complete and submit a sworn Request for Approval form, available from the Department, demonstrating that the applicant meets the requirements contained in this Section. The Request for Approval form shall set forth the qualifications of all persons the applicant wishes to qualify as RSMs.

(b) Applicants shall supply the names and telephone numbers of previous government and industry clients and copies of actual work products to verify experience, if requested by the Department. The Department may require applicants to supply additional information to clarify that provided on the Request for Approval form. Those applicants not complying with such requests shall not be approved to perform work pursuant to the rules in this Section.

(c) An REC shall promptly notify the Department if the nature of its business changes, if it no longer meets the requirements for approval under this Section due to change in personnel, or for any other reason, or if it discovers that any information it submitted in any Request for Approval is or was incorrect.

(d) Should a Department-approved RSM leave the employment of an REC or change employment within an REC, an REC shall, no later than 30 days prior to the change, submit the name and qualifications of another person to perform the role of the RSM. If an REC does not receive 30 days notice by an RSM of the RSM's intended change in employment, the REC shall notify the Department within 24 hours of the RSM providing such notice and within 30 days of the RSM's notice to the REC, submit to the Department the name and qualifications of another person to perform the role of the RSM. The Department shall determine whether the proposed replacement qualifies as an RSM. An REC may propose amendments to its approval as an REC to add or delete RSMs.

(e) The Department shall notify applicants in writing whether they are approved to conduct business as an REC. No applicant may represent itself, or work, as an REC without written Department approval.

(f) An REC's approval shall be valid for five years unless revoked earlier by the Department.

(g) The Department shall make available to the general public a list of all approved RECs.

History Note: Authority G.S. 130A-310.12(b); Eff. April 1, 1997.

.0305 STANDARDS OF CONDUCT FOR REGISTERED ENVIRONMENTAL CONSULTANTS

(a) The REC and its RSMs shall comply with the following standards of professional competence. RECs failing to do so shall be disqualified from performing work as an REC pursuant to this Section and shall be subject to

any other applicable form of enforcement.

(1) An RSM shall render a waste site cleanup activity opinion only when he or she has directly reviewed the work to ascertain whether the completed work complies with this Section.

(2) The RSM shall perform his or her services only in areas of his or her competence and shall not render a decision on any assessment or cleanup plan or document dealing with subject matter for which he or she lacks competence by virtue of education or experience. If a site assessment or cleanup activity opinion requires expertise outside the RSM's field of expertise, the RSM shall render such an opinion relying in part upon the advice of one or more professionals having relevant competence.

(b) The REC and its RSMs shall comply with the following standards of professional responsibility. RECs failing to do so shall be disqualified from performing work as an REC pursuant to this Section and shall be subject to any other applicable form of enforcement.

(1) An REC shall at all times recognize its primary obligation is to protect public health, safety and welfare and the environment in the performance of professional services as an REC.

(2) If an REC acting pursuant to this Section identifies an imminent hazard at a site at which it is providing professional services pursuant to the rules in this Section it shall, unless the REC is certain the remediating party has provided such notice, within 24 hours of discovery, notify the Department:

(A) of the hazard;

(B) whether the remediating party has agreed to take corrective action; and

(C) what action, if any, has been taken.

(3) If an REC acting pursuant to this Section determines hazardous substances have migrated to property adjoining property containing a source area, or determines there are sensitive environments or mixed wastes (commingled radioactive and chemical wastes) on the site, it shall, unless the REC is certain the remediating party has provided such notice, within 24 hours of discovery, notify the Department.

(4) In providing professional services all RSMs shall:

(A) exercise independent professional judgment;

(B) follow the requirements and procedures set forth in applicable provisions of this Section; and

(C) act with reasonable care and diligence, and apply the knowledge and skill ordinarily required of RSMs in good standing in the State at the time the services are performed.

(5) If, subsequent to the date an REC renders a waste

site cleanup activity opinion, anyone employed by the REC that rendered the opinion learns that previously unconsidered facts, data or other information may support or lead to a different opinion, the REC shall promptly notify, in writing, the remediating party and the Department.

- (6) If, subsequent to the date of its engagement, a successor REC learns of material facts, data or other information that existed as of the date of any predecessor REC's waste site cleanup activity opinion but was not disclosed in that opinion, the successor REC shall promptly notify, in writing, the remediating party and the Department.
- (7) An REC shall not allow the use of its name or the names of its RSMs by, or associate in a business venture with, any person or firm which an REC knows or should know is engaging in fraudulent or dishonest business or professional practices relating to the professional responsibilities of the REC.
- (8) The REC shall be objective and truthful in all professional reports, public statements or testimony, and shall include all relevant and pertinent information in the reports, statements, or testimony when the result of an omission would or reasonably could lead to a fallacious conclusion.
- (9) An REC shall not falsify or permit misrepresentation of an RSM's academic or professional qualifications, and shall not misrepresent or exaggerate an RSM's degree of responsibility in, or for, the subject matter of prior assignments.
- (10) RECs shall comply with all applicable provisions of law and regulation.
- (11) All RECs shall have knowledge of this Section.

History Note: Authority G.S. 130A-310.12(b); Eff. April 1, 1997.

.0307 DEPARTMENTAL AUDITS AND INSPECTIONS

(a) The Department may conduct random or targeted audits of any REC, remediating party, response action or site which is subject to this Section.

(b) During Departmental audits of voluntary remedial actions, the Department may:

- (1) request that the person who has performed the response action provide a written explanation, or other supporting evidence, to demonstrate compliance with this Section and other applicable requirements;
- (2) request that the person who has performed the response action or who is the subject of the audit appear at one of the Department's offices for an interview to provide an oral explanation, or other evidence, to demonstrate compliance with this Section and other applicable requirements (any person requested to appear for an interview may

be accompanied by an attorney or other representative);

- (3) visit a site or other location to determine whether an REC, remediating party, response action or site is in compliance with this Section and other applicable requirements;
- (4) investigate, take samples at a site and inspect records, conditions, equipment or practices material to the response action, or property related to the site; or
- (5) take any other action the Department deems necessary to determine whether response actions have been performed in compliance with this Section and other applicable requirements.

(c) Remediating parties shall provide financial assurance, by paying an annual administration cost, to participate in the voluntary remedial action program under this Section. This payment shall be set by the Department based on the expected cost of auditing voluntary remedial actions and shall be used to offset that cost. Remediating parties providing such monies shall pay any shortfall, or be reimbursed any remainder not expended by the Department, annually.

(d) Based on audit findings, the Department may terminate a site's eligibility for the voluntary remedial action program, disqualify an RSM or REC from work on a site or from the program, and take any other applicable enforcement action.

History Note: Authority G.S. 130A-310.9(b); 130A-310.12(b); Eff. April 1, 1997.

.0308 CLEANUP LEVELS

(a) RECs shall ensure that the Department's ascertainment of the most nearly applicable cleanup standards as would be applied under CERCLA/SARA are met.

(b) Characterization of risks to health, safety, public welfare, and the environment is not required under this Section for a disposal site, environmental medium, or chemical for which response actions have successfully reduced concentrations of hazardous substances to on-site natural background levels.

History Note: Authority G.S. 130A-310.3(d); 130A-310.12(b); Eff. April 1, 1997.

TITLE 17 - DEPARTMENT OF REVENUE

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1C - GENERAL ADMINISTRATION

SECTION .0500 - FORM OF PAYMENT

.0504 EFT GENERAL REQUIREMENTS

(a) Taxpayers who paid one million two hundred thousand dollars (\$1,200,000) or more of Withholding of Income Taxes from wages of individuals levied under Chapter 105 Article 4A during the selection period shall remit payments due and payable after January 1, 1994 by electronic funds transfer. Taxpayers who paid two hundred forty thousand dollars (\$240,000) or more of Withholding of Income Taxes from wages of individuals levied under Chapter 105 Article 4A during the selection period shall remit payments due and payable after January 1, 1996 by electronic funds transfer.

(b) Taxpayers who paid four hundred thousand dollars (\$400,000) or more of Corporate Income Tax who are required to make installment payments of Estimated Income Tax under Chapter 105 Article 4C during the selection period shall remit payments due and payable after January 1, 1994 by electronic funds transfer. Taxpayers who paid two hundred forty thousand dollars (\$240,000) or more of Corporate Income Tax who are required to make installment payments of Estimated Income Tax under Chapter 105 Article 4C during the selection period shall remit payments due and payable after January 1, 1996 by electronic funds transfer.

(c) Taxpayers subject to the following tax types who paid one million two hundred thousand dollars (\$1,200,000) or more during the selection period shall remit payments due on or after July 1, 1994 by electronic funds transfer:

- (1) Alcoholic Beverage Excise Taxes payable under Chapter 105 Article 2C.
- (2) Utilities Franchise Taxes levied under G.S. 105-116 or G.S. 105-120.
- (3) Utilities Sales Taxes due under the provisions of G.S. 105-164.4(a)(4c).

Taxpayers subject to the above tax types who paid two hundred forty thousand dollars (\$240,000) or more during the selection period shall remit payments due on or after January 1, 1996 by electronic funds transfer.

(d) Except as provided in Subparagraph (c)(3) of this Rule, taxpayers who paid one million two hundred thousand dollars (\$1,200,000) or more in Sales and Use Tax levied under Chapter 105 Article 5 and Articles 39, 40, and 42 of Subchapter VIII during the selection period shall remit payments due on or after October 1, 1994 by EFT. Except as provided in Subparagraph (c)(3) of this Rule, taxpayers who paid two hundred forty thousand dollars (\$240,000) or more in Sales and Use Tax levied under Chapter 105 Article 5 and Articles 39, 40, and 42 of Subchapter VIII during the selection period shall remit payments due on or after October 1, 1995 by EFT.

(e) Taxpayers who paid two hundred forty thousand dollars (\$240,000) or more in Motor Fuels Taxes levied under Chapter 105 Article 36C and 36D of Subchapter V during the selection period shall remit payments due on or after July 1, 1995 by EFT.

(f) Taxpayers who paid one million two hundred thousand dollars (\$1,200,000) or more of Tobacco Products Tax levied under Chapter 105 Article 2A during the selection

period shall remit payments due on or after January 1, 1995 by electronic funds transfer. Taxpayers who paid two hundred forty thousand dollars (\$240,000) or more of Tobacco Products Tax levied under Chapter 105 Article 2A during the selection period shall remit payments due on or after January 1, 1996 by electronic funds transfer.

(g) Taxpayers who paid one million two hundred thousand dollars (\$1,200,000) or more of Soft Drink Tax levied under Chapter 105 Article 2B during the selection period shall remit payments due on or after January 1, 1995 by electronic funds transfer. Taxpayers who paid two hundred forty thousand dollars (\$240,000) or more of Soft Drink Tax levied under Chapter 105 Article 2B during the selection period shall remit payments due on or after January 1, 1996 by electronic funds transfer.

(h) Taxpayers who paid two hundred forty thousand dollars (\$240,000) or more of Insurance Taxes levied under G.S. 105 Article 8B during the selection period shall remit payments due on or after January 1, 1996 by electronic funds transfer.

~~(i) (h)~~ The determination as to which taxpayers shall be subject to the remittance provisions to the rules in this Section shall be made by the Department, on a tax by tax basis, and shall be based on the average amount of tax paid during any 12 consecutive month period preceding the implementation of any new application or review of the payment requirement.

~~(j) (i)~~ The Department shall notify the selected taxpayers of the requirements of these Rules by first class mail to their last address of record.

~~(k) (j)~~ The Department shall provide the selected taxpayers with forms necessary for registering to make payments for the taxes through EFT. The Department shall provide an explanation of the payment options available.

~~(l) (k)~~ The taxpayer shall register to make payments for the taxes through EFT, and shall select a payment option subject to approval by the Department in accordance with Rule .0508(b).

~~(m) (l)~~ The Department shall provide technical assistance and guidance to the selected taxpayers concerning the payment of taxes through EFT. An EFT hotline shall be available to the taxpayers from 8:00 a.m. through 5:00 p.m., Eastern Standard Time, each business day, with exception of State holidays.

History Note: Authority G.S. 105-241; 105-262;

Eff. October 1, 1993;

Amended Eff. October 1, 1996; May 1, 1995; March 1, 1995; November 1, 1994;

Temporary Eff. December 20, 1995;

Amended Eff. March 1, 1997; October 1, 1996.

.0506 VOLUNTARY EFT PROGRAM PARTICIPATION

(a) The following taxpayers not subject to remittance provisions of 17 NCAC 1C .0504 may elect to participate in the EFT Program on or after January 1, 1995:

- (1) Taxpayers required to file returns and pay Withholding of Income Taxes from wages of individuals under the ~~"Three Banking Day" provision as required by G.S. 105-163-6~~ Article 4A.
- (2) Taxpayers required to remit installment payments of Estimated Corporate Income Tax under Chapter 105 Article 4C.
- (3) Taxpayers who remit Alcoholic Beverage Excise Taxes payable under Chapter 105 Article 2C.
- (4) Taxpayers who remit Utility Sales Tax payable under the provisions of G.S. 105-164.4 (a)(4c).
- (5) Taxpayers who remit Utility Franchise Tax payable under G.S. 105-116 or G.S. 105-120, excluding telephone companies who remit less than three thousand dollars (\$3,000.00) per month.
- (6) Taxpayers who are directed by the Secretary or volunteer to file reports for Sales and Use Tax on semi-monthly basis under G.S. 105-164.16(b).
- (7) Taxpayers who remit Motor Fuels Taxes levied under Chapter 105 Article ~~36~~ 36C and ~~36A~~ 36D.
- (8) Taxpayers who remit Tobacco Products Tax levied under Chapter 105 Article 2A.
- (9) Taxpayers who remit Soft Drink Tax levied under Chapter 105 Article 2B.

(10) Taxpayers who remit Insurance Taxes levied under Chapter 105 Article 8B.

(b) Taxpayers electing to voluntarily participate in the EFT Program ~~must~~ shall complete and return Form AC-EFT-100V, Electronic Funds Transfer Authorization Agreement for Voluntary Participants.

(c) Taxpayers who elect to participate in the EFT Program shall be required to remit payments electronically for a minimum of twelve consecutive months. A taxpayer may withdraw from the EFT Program after 12 months by giving the Department 45 days written notice.

(d) Taxpayers who elect to participate in the EFT Program shall be subject to the penalty provisions stated in G.S. 105-236(1a) and (1b).

(e) Taxpayers electing to participate in the EFT Program shall be subject to the same rules ~~and guidelines~~ as taxpayers subject to the remittance provisions of 17 NCAC 1C .0504.

History Note: Authority G.S. 105-236; 105-241; 105-262; Eff. October 1, 1993;

Amended Eff. March 1, 1995; November 1, 1994;

Temporary Eff. December 20, 1995;

Amended Eff. March 1, 1997.

TITLE 19A - NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

CHAPTER 2 - DIVISION OF HIGHWAYS

SUBCHAPTER 2D - HIGHWAY OPERATIONS

SECTION .1100 - DISADVANTAGED BUSINESS ENTERPRISE, MINORITY BUSINESS ENTERPRISE, AND WOMEN BUSINESS ENTERPRISE PROGRAMS FOR HIGHWAY AND BRIDGE CONSTRUCTION CONTRACTS

.1102 DEFINITIONS

For purposes of the rules in this Section, the following terms shall apply:

(1) Socially and economically disadvantaged individual means a person who is a citizen or lawful permanent resident of the United States and who is:

- (a) A Black American;
- (b) A Hispanic American;
- (c) An Asian-Pacific American;
- (d) A Native American;
- (e) An Asian-Indian American;
- (f) A Woman;

(g) A member of another group or an individual found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Administration Act, as amended [15 U.S.C. 637(d)]; or

(h) A member of another group, or an individual found to be economically and socially disadvantaged by the North Carolina Department of Transportation using the criteria prescribed in the Small Business Administration Act, as amended [15 U.S.C. 637(d)].

(2) Disadvantaged Business Enterprise (DBE) means a small business concern, as defined pursuant to Section 3 of the Small Business Act (15 U.S.C. 632) and implementing regulations which is:

(a) Owned and controlled by one or more socially and economically disadvantaged individuals;

(b) A firm which has been found to be socially and economically disadvantaged by the Small Business Act under the 8(a) program; or

(c) A firm which has been certified as socially and economically disadvantaged by the North Carolina Department of Transportation except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding three fiscal years in excess of fourteen million dollars (\$14,000,000) as adjusted by the Department for inflation.

(3) An Owned and Controlled Business means a

business;

- (a) Which is at least 51 percent owned by one or more eligible individuals, or in case of a publicly owned business at least 51 percent of the stock is owned by one or more eligible individuals; and
 - (b) Whose management and daily business operations are controlled by one or more of the eligible individuals who own it.
- (4) Eligible Individual means a socially and economically disadvantaged individual as defined in this Rule on projects financed in whole or in part with Federal funds. On projects financed with non-Federal funds, eligible individual means a minority or woman individual as defined in this Rule.
- (5) Eligible Firm means a firm owned and controlled by an eligible individual as defined in this Rule.
- (6) An eligible manufacturer means a firm owned and controlled by an eligible individual that operates or maintains a factory or establishment which produces on the premises the materials or supplies obtained by the contractor.
- (7) An eligible regular dealer means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be an eligible regular dealer, the firm must engage in, as its principal business and in its own name, the purchase and sale of products in question. A regular dealer in such items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns and operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this Rule.
- (8) Minority means a citizen or lawful permanent resident of the United States who is:
- (a) A Black American;
 - (b) A Hispanic American;
 - (c) An Asian-Pacific American;
 - (d) A Native American; or
 - (e) An Asian-Indian American.
- (9) Minority Business (MB) means a business firm which is owned and controlled by one or more minorities, except that such term shall not include any concern or group of concerns controlled by the same minority individual or individuals which has average annual gross receipts over the preceding three fiscal years in excess of fourteen million dollars (\$14,000,000) as adjusted by the Department for inflation.
- (10) Woman means a citizen or lawful permanent resident of the United States who is female.
- (11) Women Business (WB) means a business firm which is owned and controlled by one or more

women, except that such term shall not include any concern or group of concerns controlled by the same female individual or individuals which has average annual gross receipts over the preceding three fiscal years in excess of fourteen million dollars (\$14,000,000) as adjusted by the Department for inflation.

History Note: Authority G.S. 143B-348; Eff. April 30, 1997.

.1108 GOALS

(a) For each highway or bridge construction project determined appropriate by the Department, a disadvantaged business enterprise goal or minority and women business enterprise goals shall be established. To be determined appropriate, project items of work shall include but not be limited to one or more of the following: clearing and grubbing; hauling and trucking; storm drainage; concrete and masonry construction; guardrail; fencing; landscaping; erosion control; reinforcing steel; utility construction; or pavement markers and markings. In determining the goal or goals, the Department will consider the approximate dollar value of the contract, the geographical location of the proposed work, the number of eligible firms in the geographical area, and the anticipated value of the items of work to be included in the contract. Additionally, the Department shall consider the annual goals mandated by Congress and the North Carolina General Assembly. The goal or goals shall be prescribed in the project proposal as a percent of the bidder's bid price.

(b) The Contractor shall exercise all necessary and reasonable steps to ensure that eligible firms participate in at least the percentage of the contract as required by the project proposal.

History Note: Authority G.S. 136-28.4; 143B-348; Eff. April 30, 1997.

.1111 PERFORMANCE RELATED REPLACEMENT OF ELIGIBLE FIRMS

The Department may allow replacement of an eligible firm for the following performance related reasons:

- (1) If an eligible firm listed by the contractor and submitted at the time of bidding does not perform in a satisfactory manner, the contractor shall make all necessary, reasonable efforts to replace the eligible firm with another eligible firm in the same category as the firm originally submitted.
- (2) Any substitution of eligible firms after award of the contract shall be approved by the Department. The contractor shall submit any requests for substitutions through the Resident Engineer, and the request shall provide the basis or reason for the proposed substitution. In determining whether a substitution is appropriate, the Department shall consider the information submitted by the contrac-

tor, information obtained from the eligible firm the contractor seeks to remove, the items of work remaining in the contract, and the timeliness of the proposed substitution. The substitute firm shall be on the Department's list of approved subcontractors. The list of approved subcontractors shall be available at no cost from the Office of the State Contractual Services Engineer, N.C. DOT, PO Box 25201, Raleigh, NC 27611, telephone 919-733-7174.

- (3) To demonstrate necessary, reasonable efforts, the contractor shall document the steps he has taken to replace eligible firms with other eligible firms. Such documentation shall include but not be limited to the following:

(a) Copies of written notification to eligible firms that their interest is solicited in subcontracting the work defaulted by the previous subcontractor or in subcontracting other work in the contract;

(b) Efforts to negotiate with eligible firms for specific subbids including at a minimum:

(i) The names, addresses, and telephone numbers of eligible firms that were contacted;

(ii) A description of the information provided eligible firms regarding the plans and specifications for portions of the work to be performed;

(c) A statement of why additional agreements with eligible firms were not reached;

(d) For each eligible firm rejected as unqualified, the reasons for the contractor's conclusion; and

(e) Efforts made to assist the eligible firms contacted, if needed in obtaining bonding or insurance required by the contractor.

- (4) Failure of the contractor to demonstrate reasonable efforts to replace an eligible firm with another eligible firm shall be just cause to disqualify the contractor from further bidding for a period of up to six months after notification by certified mail.

~~(a) A carrier which proposes to limit its intrastate for hire operations to commodities and services or passengers which are exempt under G.S. 62-260, or which proposes to own vehicles for the purpose of leasing same, shall apply to the Division in writing, on forms furnished by the Division, and obtain a certificate of exemption.~~

~~(b) A certificate of exemption for the transportation of property may also be authorized by the Utilities Commission under G.S. 62-261(6) upon its own motion, or upon motion of any motor carrier or any other party in interest. Such motion shall fully and clearly state conditions existing which warrant exemptions from rules and shall describe the kind of property to be hauled and the territory to be served. A certificate of exemption under this Paragraph will be issued only after a careful investigation by the Utilities Commission.~~

(a) (e) Passengers, fire-fighting equipment, medical and hospital supplies, food, feed, clothing, and other articles necessary for immediate relief of or direct prevention of fires, sickness, accident, storm, flood, or similar catastrophes, may be transported by any person in any available vehicle without notice to or authority from the Utilities Commission or the Motor Carrier Regulatory Unit upon issuance of an executive order from the Governor. The North Carolina Utilities Commission, however, has jurisdiction over household goods movers.

~~(d) No exemption certificate shall be issued except for purposes as designated in Paragraphs (a) and (b) of this Rule.~~

(b) (e) A certificate of exemption may be ~~cancelled~~ canceled upon notice to the holder without hearing for any one or more of the following causes:

- (1) for failure to mark for hire vehicles as required by Paragraph (f) (c) of this Rule;
- (2) for the transportation of passengers or property not exempt from rules;
- (3) for refusal to permit the Division's inspectors, upon demand and display of proper credentials, to make examination of loaded trucks, the property being transported, and all books, records, and accounts relating to the transportation of property for hire;
- ~~(4) when it shall be determined by the Division that a certificate of exemption was obtained solely for purposes other than those enumerated in Paragraphs (a) and (b) of this Rule;~~
- (4) (5) for failure of exempt for hire passenger carriers to keep on file with the Division proper evidence of insurance as required by the Utilities Commission;
- (5) (6) for failure of exempt for hire passenger or property carriers to comply with the safety rules of the Division.

(c) (f) Every vehicle operated under a certificate of exemption shall have printed on both sides thereof, in letters and figures not less than three inches high, the owner's name, or trade name, address, and certificate number unless

History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997.

CHAPTER 3 - DIVISION OF MOTOR VEHICLES

SUBCHAPTER 3E - INTERNATIONAL REGISTRATION PLAN (IRP) SECTION

SECTION .0500 - SAFETY RULES AND REGULATIONS

.0501 CERTIFICATE: VEHICLE IDENTIFICATION: ETC

such vehicle is under permanent lease in which case only the certificate number of the lessor will shall appear. In case of a tractor-trailer unit, the marking ~~must~~ shall be on the tractor.

(d) ~~(g)~~ The lease of equipment with driver for use in private transportation of property is prohibited unless the following requirements are met:

- (1) the leased equipment ~~must~~ shall be exclusively committed to the lessee's use for the term of the lease;
- (2) the lessee ~~must~~ shall have exclusive dominion and control over the transportation service during the term of the lease;
- (3) the lessee ~~must~~ shall maintain liability insurance for any injury caused in the course of performing the transportation service;
- (4) the lessee ~~must~~ shall be responsible for compliance with safety rules;
- (5) the lessee ~~must~~ shall bear the risk of damage to cargo; and
- (6) the term of the lease ~~must~~ shall be for a minimum period of 30 days.

(e) ~~(h)~~ Any person operating under a certificate of exemption using a leased or rented vehicle shall have the vehicle properly marked or placarded on both sides in letters and figures not less than three inches high, the lessee's name or trade name, address and certificate number.

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Authority G.S. 20-378;

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Amended Eff. April 30, 1997.

.0502 PURCHASE OF FOR HIRE LICENSE TAGS

(a) A "for hire license tag" is a tag purchased by a registrant hauling commodities for compensation with an exemption certificate within the borders of North Carolina, pursuant to the requirements of G.S. 20-86.

(b) A certificate of exemption for the transportation of property issued as provided in Rule .0803 constitutes approval by the Division of the purchase of for hire tags for vehicles owned by and registered in the name of the party to whom such certificate of exemption is issued. The certificate of exemption must be presented to the Division of Motor Vehicles or its authorized agents when purchasing for hire tags.

(c) A certificate of exemption for the transportation of passengers issued as provided in Rule .0803 Rule .0501 of this Section does not in itself constitute approval by the Division of the purchase of for hire tags for vehicles owned by the person to whom such certificate is issued. For hire tags may only be purchased by holders of exemption

certificates for the transportation of passengers who are in full compliance with the insurance and safety rules of the Division. Vehicles of such carriers ~~must~~ shall be registered with the Division as required by ~~Rule .0809~~ Rule .0507 of this Section and upon carrier's compliance with said insurance and safety rules, said vehicles ~~will~~ shall be approved by the Division of Motor Vehicles so that tags may be purchased, but not before.

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Transferred and Recodified from 19A NCAC 03D .0804 Eff. January 3, 1996;

Amended Eff. April 30, 1997.

.0510 INTERSTATE CARRIERS/REGISTRATION OF CERTIFICATES: PERMITS

~~(a) Any motor carrier operating into, from, within, or through the State of North Carolina under authority issued by the Interstate Commerce Commission shall file with the North Carolina Division of Motor Vehicles and maintain a current record of such authority permitting operations within the borders of this state and such motor carrier shall not exercise such authority unless and until there shall have been filed with and approved by the Division an application for the registration of such authority and there shall have been compliance with all other requirements of Rule .0812 through Rule .0817, provided, however, that such motor carrier shall only be required to file with the Division that portion of its authority permitting operations within the borders of this state, and providing further that such motor carrier shall not be required to file with the Division emergency or temporary operating authority having a duration of 30 consecutive days or less, if such carrier has registered its authority and identified its vehicles under the provisions of Rule .0813 and Rule .0814, and furnished to the Division a telegram or other written communication describing such emergency or temporary operating authority and stating that operation thereunder shall be in full accord with the requirements of Rule .0812 through Rule .0817.~~

~~(b) If a motor carrier fails to register and identify its vehicles and driveaway operations with the Division under the provisions of Rule .0813 and Rule .0814 for three consecutive years, the Division shall cancel the motor carrier's registration of ICC operating authority under these Rules upon 30 days' notice to the carrier at its last known address, and the carrier shall not thereafter exercise its ICC authority within the borders of this state unless it shall have again registered such authority as prescribed by the provisions of Rule .0812 through Rule .0817.~~

(a) Any motor Carrier operating into, from, within, or through the State of North Carolina under authority issued by the Interstate Commerce Commission shall:

- (1) File with the North Carolina Division of Motor Vehicles;
- (2) Maintain a current record of authority permitting operations within the borders of this state;
- (3) File application of authority with DMV and receive approval of application;
- (4) Comply with all other requirements in Rules .0510 through .0515 of this Section.

(b) A motor carrier shall only file with the DMV that portion of its authority which permits operations within the borders of this state. Such motor carrier shall not file with the Division emergency or temporary operating authority having a duration of 30 consecutive days or less if the carrier has registered its authority and identified its vehicles under the provisions of Rules .0511 through .0514 of this Section. The carrier shall be in full accord with the requirements of .0510 through .0515 of this Section.

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Amended Eff. April 30, 1997.

.0512 SINGLE STATE REGISTRATION

(a) On or before the 31st day of January of each calendar year but not earlier than the preceding first day of October, interstate motor carriers shall apply to the Division for the issuance of an identification stamp or stamps for the registration and identification of the vehicle or vehicles which it intends to operate within the borders of this state during the ensuing year. Such application shall be accompanied by a filing fee in the amount of one dollar (\$1.00) for each identification stamp applied for. Applications for annual reregistration of such motor vehicles shall be accompanied by a filing fee in the amount of one dollar (\$1.00) for each identification stamp applied for. The application for the issuance of such identification stamps shall be in the form set forth in Form B available from the Motor Carrier Regulatory Unit and each application shall be duly completed and executed by an official of the motor carrier. Provided, that vehicles of such carriers domiciled in another jurisdiction which extends reciprocity to vehicles or carriers domiciled in North Carolina, pursuant to the general reciprocal agreements heretofore or hereafter entered into with the North Carolina Commissioner of Motor Vehicles under Article 1A of Chapter 20 of the General Statutes, shall be exempt from the payment of registration fees required in this Paragraph to the same extent as such jurisdiction exempts vehicles of carriers domiciled in North Carolina from annual interstate public utilities vehicle registration fees similar to the fee required in this Paragraph.

(b) On or before the 31st day of January of each calendar

year but not earlier than the preceding first day of October, each motor carrier shall apply to the National Association of Regulatory Utility Commissioners for the issuance of and obtain a sufficient supply of uniform identification cab cards for use in connection with the registration and identification of the vehicle or vehicles which it intends to operate within the borders of this state during the ensuing year. Cab cards shall be in the form set forth in Form D available from NARUC.

(c) The identification stamp shall be in the shape of a square and shall not exceed one inch in diameter and such stamp shall bear an expiration date of the first day of February in the succeeding calendar year.

(d) The registration and identification of vehicles and the identification stamp evidencing same and the cab card prepared shall become void on the first day of February in the succeeding calendar year unless such registration is terminated prior thereto. North Carolina identification stamps shall bear an expiration date of the first day of February in the succeeding calendar year. See G.S. 20-385.

(a) The motor carrier shall keep a copy of the RS-3 registration receipt in each of its for-hire motor vehicles. The motor carrier may transfer the receipt from one for-hire motor vehicle to another as long as the total number of for-hire motor vehicles operated in any jurisdiction and in all jurisdictions does not exceed the number stated on the receipt.

(b) The RS-3 registration receipt shall become void on the last day of December in the calendar year. The motor carrier shall file for a new receipt annually.

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Amended Eff. April 30, 1997.

.0513 EVIDENCE OF LIABILITY SECURITY

(a) All interstate motor carriers shall keep in force at all times public liability and property damage insurance in amounts not less than the minimum limits prescribed by the U.S. Department of Transportation or Interstate Commerce Commission. The policy shall have attached thereto an endorsement (Form F, Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsement) and as evidence of such insurance, there There shall be filed with the Division a Form E (Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance) as set forth in these Rules. the rules in this Section. A BMC91 (Uniform Motor Carrier Bodily Injury and Property Damage Certificate of Insurance) or a BMC91X (Motor Carrier Automobile Bodily Injury Liability and Property Damage Liability) shall be filed with the Division

~~if a motor carrier has authority from U.S. DOT.~~

(b) Notice of cancellation of insurance shall be given to the Division by the insurer. ~~insurer by filing Form K (Uniform Notice of Cancellation of Motor Carrier Insurance Policies). The BMC35 (Notice of Cancellation of Motor Carrier Insurance) shall be filed to cancel the BMC91 or BMC91X.~~

(c) Such motor carriers who have been permitted to post bond in lieu of insurance or who have qualified as self-insurers, under the rules and regulations of the ~~Interstate Commerce Commission~~, U.S. DOT, shall not engage in interstate commerce within the borders of this state unless and until such carriers have filed surety bonds (Form G, Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond) which have been accepted by the Division or a true and legible copy of the currently effective ICC U.S. DOT order authorizing such motor carrier to self-insure under the provisions of the Interstate Commerce Act. Notice of cancellation of surety bonds shall be given to the Division by filing Form L (Uniform Notice of Cancellation of Motor Carrier Surety Bond).

~~(d) No such policy or bond shall be acceptable unless issued by an admitted company or a surplus lines company as permitted in G.S. 58-16-1 and 58-21-20. Provided, if the motor carrier is not registered in this state and the insurance company or surety company is a non-admitted company, the company shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action upon the policy or bond arising out of an accident involving the motor carrier in this state. Further, the company must be qualified in the state where the motor carrier is registered.~~

(d) A BMC91 or BMC91X shall not be accepted unless it is issued by an insurance company authorized by U.S. DOT.

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Amended Eff. April 30, 1997.

.0514 ISSUANCE OF REGISTRATION RECEIPT

(a) Identification stamps will not be issued until a motor carrier is in full compliance with all of the provisions of Rule .0812 through Rule .0817.

(b) Prior to operating a vehicle within the borders of North Carolina, the motor carrier shall place one of such identification stamps on the back of the cab card in the square bearing the name of this state in such manner that the same cannot be removed without defacing it. The motor carrier shall thereupon duly complete and execute the form of certificate printed on the front of the cab card so as to

~~identify itself and such vehicle, or driveaway operation and, in the case of a vehicle leased by the motor carrier, such expiration date shall not exceed the expiration date of the lease. The appropriate expiration date shall be entered in the space provided below the certificate. Such expiration date shall be within a period of 15 months from the date of any identification stamp or number placed on the back thereof. However, in the case of a vehicle leased by the motor carrier for 29 consecutive days' duration or less, the carrier may reuse the cab card for the same vehicle when subsequently leased for 29 consecutive days' duration or less, if it enters in the upper left hand corner of the front of the cab card the figure and words "29 day lease or less" and if it enters an expiration date in the space provided below the certificate which shall be within a period of 15 months from the date the cab card is executed and shall not be later in time than the expiration date of any identification stamp or number placed on the back thereof.~~

~~(e) The cab card shall be maintained in the cab of such vehicle for which prepared whenever the vehicle is operated under the authority of the carrier identified in the cab card.~~

~~(d) A cab card shall upon demand be presented by the driver to any authorized agent or representative of the North Carolina Division of Motor Vehicles.~~

~~(e) Each motor carrier shall destroy a cab card immediately upon its expiration except as otherwise provided in the proviso to Paragraph (f) of this Rule.~~

~~(f) A motor carrier permanently discontinuing the use of a vehicle, for which a cab card has been prepared, shall nullify the cab card at the time of such discontinuance. Provided, however, that if such discontinuance results from destruction, loss or transfer of ownership of a vehicle owned by such carrier, or results from destruction or loss of a vehicle operated by such carrier under a lease of 30 consecutive days or more and such carrier provides a newly acquired vehicle in substitution thereof within 30 days of the date of such discontinuance, each identification stamp and number placed on the cab card prepared for such discontinued vehicle, if such card is still in the possession of the carrier, may be transferred to the substitute vehicle by compliance with following procedure:~~

~~(1) Each motor carrier shall duly complete and execute the form of certificate printed on the front of a new cab card, so as to identify itself and the substitute vehicle and shall enter the appropriate expiration date in the space provided below such certificate;~~

~~(2) Each motor carrier shall indicate the date it terminated use of the discontinued vehicle by entering same in the space provided for an early expiration date which appears below the certificate of the cab card prepared for such vehicle;~~

~~(3) Each motor carrier shall affix the cab card prepared for the substitute vehicle to the front of the cab card prepared for the discontinued vehicle, by permanently attaching the upper left hand corners of both cards and, thereupon, each identification~~

~~stamp or number appearing on the back of the card prepared for the discontinued vehicle shall be deemed to apply to the operation of the substitute vehicle.~~

(g) ~~If a cab card is lost, destroyed, mutilated, or becomes illegible, a new cab card may be prepared and new identification stamp issued therefore upon application by the motor carrier and upon payment of the same fee prescribed for the original issuance thereof.~~

(a) The RS-3 Registration Receipt shall not be issued until a motor carrier is in full compliance with all the provisions of Rules .0510 through .0517 of this Section.

(b) Prior to operating a vehicle within the borders of North Carolina, the motor carrier shall place a copy of the RS-3 registration receipt in each vehicle for which fees have been paid.

(c) A copy of the RS-3 registration receipt, upon request, shall be presented by the driver to any authorized agent or representative of the North Carolina Division of Motor Vehicles.

(d) The original RS-3 registration receipt shall be retained by the motor carrier at its principal place of business for a period of three years. The motor carrier shall replace all expired copies of the RS-3 registration receipt with updated receipts each year.

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Amended Eff. April 30, 1997.

.0515 DESIGNATION OF PROCESS AGENT

No motor carrier shall engage in interstate commerce within the borders of the State of North Carolina unless and until there shall have been filed with and accepted by the Division a currently effective designation of a local agent for service of process. Each carrier shall file such designation by showing the name and address of such agent on the uniform application for registration of interstate operating authority as set forth in Form A available from the Motor Carrier Regulatory Unit or by furnishing the Division with a true copy of the designation of such agent filed with the ~~Interstate Commerce Commission.~~ U.S. DOT.

When a motor carrier is registering to operate under the Single State Registration Program a designation of process agent (BOC-3) shall be submitted with the initial application. Designation of process agent shall be filed in the registration state for each state of travel.

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Amended Eff. April 30, 1997.

.0518 REGISTRATION: EXEMPT INTERSTATE MOTOR CARRIERS: DEFINITIONS

The following letters and words, when used in ~~Rule .0821 through Rule .0827,~~ Rules .0519 through .0525 of this Section, shall have the following meanings, unless otherwise clearly apparent from the context:

- (1) The words "driveaway operation" shall mean an operation in which any vehicle or vehicles, operated singly or in lawful combinations, new or used, not owned by the transporting motor carrier, constitute the commodity being transported;
- (2) The letters "~~ICC~~" "U.S. DOT" shall mean the ~~Interstate Commerce Commission,~~ United States Department of Transportation;
- (3) The word "law" shall include constitutional and statutory provisions and rules adopted by the North Carolina Division of Motor Vehicles;
- (4) The words "motor carrier" shall mean a motor carrier of passengers or property for compensation engaged in interstate or foreign commerce when its operation is exempt from economic regulation by the ~~Interstate Commerce Commission~~ U.S. DOT under the Interstate Commerce Act, as amended;
- (5) The letters "NARUC" shall mean the National Association of Regulatory Utility Commissioners;
- (6) The words "State Commission", "Commission", or "Division" shall mean the North Carolina Division of Motor Vehicles;
- (7) The word "vehicle" shall mean a self-propelled or motor driven vehicle operated by a motor carrier; and
- (8) The words "within the borders" shall mean such operations deemed to include interstate or foreign operations to, from, within or traversing the state.

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Amended Eff. April 30, 1997.

.0522 EVIDENCE OF LIABILITY SECURITY

(a) All interstate exempt motor carriers shall keep in force at all times public liability and property damage insurance in amounts not less than the minimum limits

prescribed by the United States Department of Transportation, ~~Transportation or the Interstate Commerce Commission. The policy shall have attached thereto an endorsement Form F (Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsement) and as evidence of such insurance, there~~ There shall be filed with the Division a Form E (Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance).

(b) Notice of cancellation of insurance shall be given to the Division by the insurer by filing Form K (Uniform Notice of Cancellation of Motor Carrier Insurance Policies).

(c) Such motor carriers who elect to post bond in lieu of insurance ~~must~~ shall do so by filing Form G (Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond). Notice of cancellation of surety bond shall be given to the Division by filing Form L (Uniform Notice of Cancellation of Motor Carrier Surety Bond).

(d) No such policy or bond shall be acceptable unless issued by an admitted company or a surplus lines company as permitted in G.S. 58-16-1 and 58-21-20. Provided, if the motor carrier is not registered in this state and the insurance company or surety company is a non-admitted company, the company shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action upon the policy or bond arising out of an accident involving the motor carrier in this state. Further, the company ~~must~~ shall be qualified in the state where the motor carrier is registered.

History Note: Filed as a Temporary Rule Eff. February 11, 1986 for a Period of 120 Days to Expire on June 11, 1986;

Authority G.S. 20-378;

Eff. April 1, 1986;

Amended Eff. January 1, 1994; November 1, 1991;

Transferred and Recodified from 19A NCAC 03D .0824 *Eff.* January 3, 1996;

Amended Eff. April 30, 1997.

CHAPTER 6 - DEPUTY SECRETARY - TRANSIT, RAIL, AND AVIATION

SUBCHAPTER 6B - PUBLIC TRANSPORTATION AND RAIL PROGRAM

SECTION 0400 - RAIL INDUSTRIAL ACCESS PROGRAM

.0412 PROCUREMENTS

All procurements shall be handled as follows:

- (1) Procurements shall be conducted through formal, competitive bidding;
- (2) Prior to advertising for bids, the Grantee shall submit the request for bids to the Department for review and approval in accordance with Federal Transportation Authority policies which are found in 49 CFR, Subtitle A, Part 18.36, Procurement,

which is hereby incorporated by reference including all subsequent amendments and editions and is available at no cost from the Rail Division, N.C. DOT, PO Box 25201, Raleigh, NC 27611, telephone 919-733-4713;

- (3) The Grantee shall solicit bids from at least three firms;
- (4) The Grantee shall submit to the Department a certified tabulation of the bids received and a recommendation for bid award;
- (5) The Department shall review and approve the bid award in accordance with G.S. 143-129 prior to the execution of a contract between the Grantee and the selected bidder. The Grantee shall submit the following information when requesting bid approval:
 - (a) Bid list;
 - (b) Copy of proposed contract;
 - (c) Certified tabulation of bids results;
 - (d) Copy of signed bid submitted by the recommended bidder; and
- (6) After the Department approves a contract award, in accordance with G.S. 143-219, the Grantee shall submit a copy of the executed contract to the Department.

History Note: Authority G.S. 136-44.36; 143-129; 143B-350(f) and (g);

Eff. April 30, 1997.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 69 - BOARD FOR LICENSING OF SOIL SCIENTISTS

SECTION .0200 - LICENSING OF SOIL SCIENTISTS

.0201 APPLICATION PROCEDURE

(a) All applicants for licensing shall furnish the following:

- (1) A legible official copy of their college transcript(s), and verification of graduation sent directly from the institution to the Board;
 - (2) A record of experience in the practice of soil science including any of the applicant's written reports, maps, published articles or other materials the Board determines are appropriate to document the applicant's experience as a soil scientist;
 - (3) Four references as defined in G.S. 89F-10(a)(1);
 - (4) Signed copy of Code of Professional Conduct;
 - (5) A notarized copy of a completed application form; and
 - (6) The application fee as prescribed in Rule .0104 of this Chapter.
- (b) Applicants for licensing under comity shall submit an application form along with the prescribed fee. The Board

may require the submittal of additional information if necessary to determine if the applicant meets the requirements of G.S. 89F.

(c) Applicants for reinstatement of an expired license shall submit a reinstatement application and the prescribed fee.

(d) Applicants for reinstatement of a revoked or suspended license shall submit such information as necessary to determine their eligibility for reinstatement, and shall submit the prescribed fee.

(e) Applicants who do not meet the minimum qualification for education as defined in G.S. 89F-10 but have a specific record of 15 years or more experience in the practice of soil science of a grade and character that indicates to the Board that the applicant is competent to practice soil science shall be admitted to the written examination. The applicant shall show evidence of the practicing experience. Upon passing such examination, the applicant shall be granted a license to practice soil science in this State, provided other requirements of G.S. 89F and the rules in this Chapter are met.

History Note: Authority G.S. 89F-5; 89F-9; 89F-10; 89F-12;

Temporary Adoption Eff. May 15, 1996;

Eff. April 1, 1997.

SECTION .0300 - CONTINUING PROFESSIONAL COMPETENCY

.0306 RECORDKEEPING

(a) Each licensee shall maintain records to be used to support credits claimed. Records required include:

- (1) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned;
- (2) attendance verification records in the form of completion certificates, or other documents supporting evidence of attendance.

(b) These records shall be maintained for a period of three years and copies may be requested by the Board for audit verification purposes.

History Note: Authority G.S. 89F-5;
Temporary Adoption Eff. May 15, 1996;
Eff. April 1, 1997.

SECTION .0500 - DISCIPLINARY ACTION AND PROCEDURE

.0501 IMPROPER PRACTICE BY LICENSEE

(a) Duty of the Board. When the Board becomes aware of a complaint, it shall send a "letter of inquiry" to the soil scientist involved and to the complainant. The soil scientist shall reply to this and any other inquiry of the Board within 30 calendar days. Failure to respond shall constitute violation of the rules in this Chapter. After receiving and

considering the response from the soil scientist, the Board may send additional letters of inquiry to the soil scientist and other persons involved.

(b) Findings of the Board. Upon consideration of responses to inquiries, the Board shall determine what action shall be taken:

- (1) if the Board determines that no disciplinary action is necessary, all parties previously contacted shall be so informed;
- (2) if the Board determines that the infraction is deemed minor, then the licensee may be offered a "letter of warning". This "letter of warning" shall note the licensee's acceptance of such action by the Board and shall specify the Board's cause for concern. Other persons previously contacted shall be informed that the Board has acted upon the matter;
- (3) if the Board determines that a formal hearing should be held, G.S. 150B is applicable;
- (4) if the Board determines that another person involved is licensed by the State, relevant information shall be sent by letter to the respective professional board.

History Note: Authority G.S. 89F-5; 89F-18; 89F-20; 89F-22;

Temporary Adoption Eff. May 15, 1996;

Eff. April 1, 1997.

The List of Rules Codified is a listing of rules that were filed with OAH in the month indicated and have been entered into the Code.

Key:

Citation = Title, Chapter, Subchapter and Rule(s)

AD = Adopt

AM = Amend

RP = Repeal

With Chgs = Final text differs from proposed text

Corr = Typographical errors or changes that requires no rulemaking

Temp. = Rule was filed as a temporary rule

Eff. Date = Date rule becomes effective

NORTH CAROLINA ADMINISTRATIVE CODE

SEPTEMBER 96

TITLE	DEPARTMENT	TITLE	DEPARTMENT
10	Human Resources	21	Occupational Licensing Boards
11	Insurance		16 - Dental Examiners
15A	Environment, Health, and Natural Resources		45 - Fee-Based Practicing Pastoral Counselors
17	Revenue	24	54 - Practicing Psychologist
			Independent Agencies
			1 - NC Housing Finance Agency
		25	Personnel

RULE CITATION				AD	AM	RP	WITH CHGS	CORR	TEMP	EFFECTIVE DATE
10	NCAC	26H	.0212 - .0213		✓				✓	09/25/96
			.0602		✓				✓	10/01/96
11	NCAC	20	.0101	✓			✓			10/01/96
			.0201 - .0205	✓			✓			10/01/96
			.0301 - .0304	✓			✓			10/01/96
			.0401 - .0411	✓			✓			10/01/96
			.0501 - .0511	✓			✓			10/01/96
			.0601 - .0602	✓			✓			10/01/96
15A	NCAC	2B	.0101		✓		✓			10/01/96
			.0103		✓		✓			10/01/96
			.0109			✓				10/01/96
			.0201 - .0202		✓		✓			10/01/96
			.0231	✓			✓			10/01/96
		2C	.0211		✓		✓			10/01/96

LIST OF RULES CODIFIED

RULE CITATION				AD	AM	RP	WITH CHGS	CORR	TEMP	EFFECTIVE DATE
15A	NCAC	2C	.0213 - .0214		✓		✓			10/01/96
		2H	.0501	✓			✓			10/01/96
			.0502 - .0504		✓		✓			10/01/96
			.0506	✓			✓			10/01/96
			.0507		✓		✓			10/01/96
		3M	.0204		✓				✓	10/01/96
			.0504		✓				✓	10/01/96
		7H	.0106		✓		✓			10/01/96
17	NCAC	1C	.0504		✓					10/01/96
21	NCAC	16H	.0203		✓		✓			10/01/96
		16T	.0101 - .0102	✓			✓			10/01/96
		16U	.0101 - .0102	✓						10/01/96
			.0201	✓			✓			10/01/96
			.0202 - .0203	✓						10/01/96
			.0204	✓			✓			10/01/96
		45	.0801	✓			✓			10/01/96
		54	.1901	✓			✓			10/01/96
24	NCAC	1P	.0101 - .0103	✓					✓	10/01/96
			.0201 - .0203	✓					✓	10/01/96
25	NCAC	1D	.2501		✓				✓	09/01/96
			.2503 - .2505		✓				✓	09/01/96
			.2507 - .2509		✓				✓	09/01/96
			.2511		✓				✓	09/01/96
			.2513 - .2514		✓				✓	09/01/96
			.2516	✓					✓	09/01/96

This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, October 17, 1996, 10:00 a.m., at 1307 Glenwood Ave., Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, October 14, 1996, at 5:00 p.m. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Vernice B. Howard

Teresa L. Smallwood

Charles H. Henry

Philip O. Redwine - Vice Chairman

Appointed by House

Bill Graham

Paul Powell

Anita White

RULES REVIEW COMMISSION MEETING DATES

October 17, 1996

November 21, 1996

December 19, 1996

MEETING DATE: OCTOBER 17, 1996

LOG OF FILINGS

RULES SUBMITTED: AUGUST 20, 1996 THROUGH SEPTEMBER 20, 1996

AGENCY/DIVISION	RULE NAME	RULE	ACTION
DHR/DIVISION OF FACILITY SERVICES			
	Name and Address	10 NCAC 3R .0109	Repeal
	Definitions	10 NCAC 3R .0110	Amend
	Location of Agency	10 NCAC 3R .0111	Adopt
	Health Maintenance	10 NCAC 3R .0213	Amend
	Replacement Equipment	10 NCAC 3R .0214	Amend
	Psychiatric Bed Conversion	10 NCAC 3R .0215	Adopt
	Letter of Intent	10 NCAC 3R .0303	Amend
	Determination of Review	10 NCAC 3R .0304	Amend
	Filing Applications	10 NCAC 3R .0305	Amend
	Withdrawal of Certificate	10 NCAC 3R .0317	Amend
	Assessment of Civil Penalty	10 NCAC 3R .0904	Adopt
	State Medical Facilities	10 NCAC 3R .1003	Repeal
	Definitions	10 NCAC 3R .1113	Repeal
	Capacity in the Facility	10 NCAC 3R .1115	Repeal
	Scope of Services	10 NCAC 3R .1116	Repeal
	Projected Utilization	10 NCAC 3R .1117	Repeal
	Projected Patient Origin	10 NCAC 3R .1118	Repeal
	Site: Building	10 NCAC 3R .1119	Repeal
	Staffing	10 NCAC 3R .1120	Repeal
	Accessibility of Services	10 NCAC 3R .1124	Repeal
	Information Required	10 NCAC 3R .1125	Adopt
	Required Performance	10 NCAC 3R .1126	Adopt
	Required Staffing	10 NCAC 3R .1127	Adopt
	Information Required	10 NCAC 3R .1214	Amend
	Required Support	10 NCAC 3R .1216	Amend

Accessibility	10 NCAC 3R .1218	Repeal
Data Reporting	10 NCAC 3R .1219	Repeal
Definitions	10 NCAC 3R .1302	Repeal
Capacity in the Facility	10 NCAC 3R .1304	Repeal
Scope of Services Offered	10 NCAC 3R .1305	Repeal
Projected Utilization	10 NCAC 3R .1306	Repeal
Projected Patient Origin	10 NCAC 3R .1307	Repeal
Site and Equipment	10 NCAC 3R .1308	Repeal
Staffing	10 NCAC 3R .1309	Repeal
Definitions	10 NCAC 3R .1413	Amend
Information Required	10 NCAC 3R .1414	Amend
Data Reporting	10 NCAC 3R .1418	Repeal
Accessibility	10 NCAC 3R .1419	Repeal
Definitions	10 NCAC 3R .1613	Amend
Information Required	10 NCAC 3R .1614	Amend
Required Performance	10 NCAC 3R .1615	Amend
Data Reporting	10 NCAC 3R .1618	Repeal
Accessibility	10 NCAC 3R .1619	Repeal
Definitions	10 NCAC 3R .1713	Amend
Information Required	10 NCAC 3R .1714	Amend
Data Reporting	10 NCAC 3R .1719	Repeal
Accessibility	10 NCAC 3R .1720	Repeal
Definitions	10 NCAC 3R .1912	Amend
Information Required	10 NCAC 3R .1913	Amend
Required Performance	10 NCAC 3R .1914	Amend
Required Staffing	10 NCAC 3R .1916	Amend
Accessibility	10 NCAC 3R .1917	Repeal
Data Reporting	10 NCAC 3R .1918	Repeal
Accessibility to Services	10 NCAC 3R .2117	Repeal
Data Reporting	10 NCAC 3R .2120	Repeal
Data Reporting	10 NCAC 3R .2319	Repeal
Accessibility	10 NCAC 3R .2320	Repeal
Definitions	10 NCAC 3R .2402	Amend
Capacity in the Facility	10 NCAC 3R .2404	Repeal
Scope of Services	10 NCAC 3R .2405	Repeal
Project Utilization	10 NCAC 3R .2406	Repeal
Projected Resident Origin	10 NCAC 3R .2407	Repeal
Site: Building	10 NCAC 3R .2408	Repeal
Staffing	10 NCAC 3R .2409	Repeal
Information Required	10 NCAC 3R .2410	Adopt
Performance Standards	10 NCAC 3R .2411	Adopt
Staff	10 NCAC 3R .2412	Adopt
Definitions	10 NCAC 3R .2502	Amend
Capacity in the Facility	10 NCAC 3R .2503	Repeal
Capacity in the Service Area	10 NCAC 3R .2504	Repeal
Scope of Services	10 NCAC 3R .2505	Repeal
Staffing	10 NCAC 3R .2506	Repeal
Accessibility	10 NCAC 3R .2507	Repeal
Capital	10 NCAC 3R .2508	Repeal
Quality of Services	10 NCAC 3R .2509	Repeal
Quality of Services	10 NCAC 3R .2510	Adopt
Performance Standards	10 NCAC 3R .2511	Adopt
Staffing	10 NCAC 3R .2512	Adopt
Capacity in the Facility	10 NCAC 3R .2603	Repeal
Scope of Services	10 NCAC 3R .2605	Repeal
Accessibility	10 NCAC 3R .2607	Repeal
Relationship	10 NCAC 3R .2608	Repeal

Capital	10 NCAC 3R .2609	Repeal
Quality of Services	10 NCAC 3R .2610	Repeal
Information Required	10 NCAC 3R .2612	Adopt
Performance Standards	10 NCAC 3R .2613	Adopt
Accessibility	10 NCAC 3R .2718	Repeal
Data Reporting	10 NCAC 3R .2719	Repeal
Information Required	10 NCAC 3R .2802	Amend
Projected Utilization	10 NCAC 3R .2803	Repeal
Projected Patient Origin	10 NCAC 3R .2804	Repeal
Site: Building	10 NCAC 3R .2805	Repeal
Required Staffing	10 NCAC 3R .2806	Amend
Accessibility	10 NCAC 3R .2807	Repeal
Relationship	10 NCAC 3R .2809	Repeal
Performance Standards	10 NCAC 3R .2810	Adopt
Certificate of Need	10 NCAC 3R .3001	Amend
Multi-County Groupings	10 NCAC 3R .3010	Amend
Certificate of Need	10 NCAC 3R .3020	Amend
Facility and Service Need	10 NCAC 3R .3030	Amend
Dialysis Station	10 NCAC 3R .3032	Amend
Reallocations	10 NCAC 3R .3040	Amend
Policies	10 NCAC 3R .3050	Amend
Information Required	10 NCAC 3R .3103	Amend
Accessibility	10 NCAC 3R .3107	Repeal
Data Reporting	10 NCAC 3R .3108	Repeal
Required Support	10 NCAC 3R .3204	Amend
Data Reporting	10 NCAC 3R .3206	Repeal
Accessibility	10 NCAC 3R .3207	Repeal
Data Reporting	10 NCAC 3R .3306	Repeal
Definitions	10 NCAC 3R .3401	Amend
Data Reporting	10 NCAC 3R .3406	Repeal
Accessibility	10 NCAC 3R .3407	Repeal
Information Required	10 NCAC 3R .3502	Amend
Need for Services	10 NCAC 3R .3503	Repeal
Data Reporting	10 NCAC 3R .3506	Repeal
Accessibility	10 NCAC 3R .3507	Repeal
Accessibility	10 NCAC 3R .3606	Repeal
Data Reporting	10 NCAC 3R .3607	Repeal
Data Reporting	10 NCAC 3R .3706	Repeal
Accessibility	10 NCAC 3R .3707	Repeal
Data Reporting	10 NCAC 3R .3806	Repeal
Accessibility	10 NCAC 3R .3807	Repeal
Definitions	10 NCAC 3R .3902	Amend
Information Required	10 NCAC 3R .3963	Amend
Need for Facility	10 NCAC 3R .3904	Repeal
Data Reporting	10 NCAC 3R .3907	Repeal
Accessibility	10 NCAC 3R .3908	Repeal
Performance Standards	10 NCAC 3R .3909	Adopt
Information Required	10 NCAC 3R .4002	Amend
Required Support	10 NCAC 3R .4003	Amend
Additional Requirements	10 NCAC 3R .4004	Amend
Additional Requirements	10 NCAC 3R .4005	Amend
Additional Requirements	10 NCAC 3R .4006	Amend
Additional Requirements	10 NCAC 3R .4007	Amend
Additional Requirements	10 NCAC 3R .4008	Repeal
Need for Services	10 NCAC 3R .4010	Repeal
Data Reporting	10 NCAC 3R .4011	Repeal
Accessibility	10 NCAC 3R .4012	Amend

Information Required	10 NCAC 3R .4102	Amend
Required Performance	10 NCAC 3R .4103	Amend
Required Support	10 NCAC 3R .4104	Amend
Required Staffing	10 NCAC 3R .4105	Amend
Data Reporting	10 NCAC 3R .4106	Repeal
Accessibility	10 NCAC 3R .4107	Repeal
Information Required	10 NCAC 3R .4202	Amend
Required Support	10 NCAC 3R .4204	Amend
Accessibility	10 NCAC 3R .4206	Repeal
Data Reporting	10 NCAC 3R .4207	Repeal

DHR/CHILD DAY CARE COMMISSION

Definitions	10 NCAC 3U .0102	Amend
Preservice Requirements	10 NCAC 3U .0704	Amend
Preservice Requirements	10 NCAC 3U .0710	Amend
Application for Permits	10 NCAC 3U .2701	Adopt
Criminal Record Check	10 NCAC 3U .2702	Adopt
Criminal Record Check	10 NCAC 3U .2703	Adopt
Criminal Record Check	10 NCAC 3U .2704	Adopt

DHR/SOCIAL SERVICES COMMISSION

Preplacement Assessment	10 NCAC 41P .0008	Amend
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DEHNR/ENVIRONMENTAL MANAGEMENT COMMISSION

Activities Exempted	15A NCAC 2Q .0102	Amend
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DEHNR/WILDLIFE RESOURCES COMMISSION

Wildlife Taken	15A NCAC 10B .0106	Amend
Possession of Certain Species	15A NCAC 10B .0123	Amend
Local Water Safety	15A NCAC 10F .0307	Amend
Qualifications	15A NCAC 10G .0102	Repeal
Change of Ownership	15A NCAC 10G .0103	Repeal
Qualifications of Agents	15A NCAC 10G .0202	Repeal
Change of Ownership	15A NCAC 10G .0203	Repeal
Authority of Boat Registration	15A NCAC 10G .0206	Repeal
Qualifications of Agents	15A NCAC 10G .0302	Repeal
Change of Ownership	15A NCAC 10G .0303	Repeal
Purpose	15A NCAC 10G .0401	Adopt
Appointment	15A NCAC 10G .0402	Adopt
Wildlife Service Agent	15A NCAC 10G .0403	Adopt
Customer Support System	15A NCAC 10G .0404	Adopt
Protection of Endangered Species	15A NCAC 10I .0002	Amend

DEHNR/COMMISSION FOR HEALTH SERVICES

Definitions	15A NCAC 18A .2601	Amend
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NC LICENSING BOARD FOR GENERAL CONTRACTORS

Eligibility	21 NCAC 12 .0204	Amend
Renewal of License	21 NCAC 12 .0503	Amend

OFFICE OF ADMINISTRATIVE HEARINGS

Order Designating Complex	26 NCAC 3 .0301	Adopt
Factors to be Considered	26 NCAC 3 .0302	Adopt
Venue	26 NCAC 3 .0303	Adopt
Expedited Hearing	26 NCAC 3 .0304	Adopt
Rules and Procedures	26 NCAC 3 .0305	Adopt

RULES REVIEW OBJECTIONS

BOARD OF DENTAL EXAMINERS

21 NCAC 16H .0104 - Approved Education and Training Programs	RRC Objection	09/19/96
21 NCAC 16H .0202 - Specific Permitted Functions of Dental Assistant I	RRC Objection	09/19/96

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Environmental Management

15A NCAC 2B .0101 - General Procedures	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2B .0103 - Analytical Procedures	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Revised Rule	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2B .0109 - Waters Affected by Dredge and Fill Activities	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
	Obj. Removed	09/19/96
15A NCAC 2B .0201 - Antidegradation Policy	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2B .0202 - Definitions	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Revised Rule	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2B .0231 - Wetland Standards (Rule .0231 was Noticed as Rule .0220)	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2C .0211 - Permits	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
15A NCAC 2C .0213 - Additional Criteria and Standards Applicable to Class 5 Wells	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
15A NCAC 2C .0214 - Abandonment and Change-of-Status of Wells	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
15A NCAC 2D .0501 - Compliance with Emission Control Standards	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0608 - Program Schedule	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0901 - Definitions	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0926 - Bulk Gasoline Plants	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0934 - Coating of Miscellaneous Metal Parts and Products	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .1109 - Case-by-Case Maximum Achievable Control Technology	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2H .0501 - Purpose	RRC Objection	07/18/96

<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2H .0502 - Application	<i>RRC Objection</i>	<i>07/18/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2H .0503 - Public Notice	<i>RRC Objection</i>	<i>07/18/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2H .0504 - Hearing	<i>RRC Objection</i>	<i>07/18/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2H .0506 - Criteria for Review of Applications	<i>RRC Objection</i>	<i>07/18/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2H .0507 - Issuance of Certification	<i>RRC Objection</i>	<i>07/18/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>

Commission for Health Services

15A NCAC 13C .0302 - General Provisions	<i>RRC Objection</i>	<i>09/19/96</i>
15A NCAC 13C .0304 - Minimum Qualifications for Registered Env. Consultants	<i>RRC Objection</i>	<i>09/19/96</i>
15A NCAC 13C .0306 - Technical Standards for Registered Environmental Consultants	<i>RRC Objection</i>	<i>09/19/96</i>
15A NCAC 18A .3106 - Abatement	<i>RRC Objection</i>	<i>07/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>08/15/96</i>

Wildlife Resources Commission

15A NCAC 10F .0104 - Certificate of Number	<i>RRC Objection</i>	<i>07/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>08/15/96</i>
15A NCAC 10F .0105 - Numbering Pattern	<i>RRC Objection</i>	<i>07/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>08/15/96</i>
15A NCAC 10F .0342 - Catawba County		
<i>Rule Withdrawn by Agency</i>		<i>07/18/96</i>

HUMAN RESOURCES

Social Services Commission

10 NCAC 41F .0707 - Criminal Histories	<i>RRC Objection</i>	<i>07/18/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>
10 NCAC 41F .0813 - Criminal History Checks	<i>RRC Objection</i>	<i>07/18/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>
10 NCAC 41F .0814 - Training Requirements	<i>RRC Objection</i>	<i>07/18/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>

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11 NCAC 20 .0101 - Definitions	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0402 - Organization Structure	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0404 - Application	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0406 - Provider Files	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0501 - Program	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0502 - Structure	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0505 - Quality of Care Complaints	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0701 - Accessibility of Providers	RRC Objection	08/15/96
Agency Withdrew Rule	Obj. Cont'd	09/19/96

EXAMINERS FOR NURSING HOME ADMINISTRATORS

21 NCAC 37H .0102 - Continuing Education Programs of Study	RRC Objection	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96

PSYCHOLOGY BOARD

21 NCAC 54 .1901 - Types	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96

REAL ESTATE COMMISSION

21 NCAC 58A .0104 - Agency Agreements and Disclosure	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58A .0113 - Reporting Criminal Convictions	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58A .0502 - Business Entities	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
21 NCAC 58A .0610 - Subpoenas	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58E .0302 - Elective Course Component	RRC Objection	06/20/96
Agency Responded	Obj. Cont'd	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96

REVENUE

17 NCAC 1C .0504 - EFT General Requirements	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96

BOARD FOR LICENSING OF SOIL SCIENTISTS

21 NCAC 69 .0102 - Duties of Officers	RRC Objection	09/19/96
21 NCAC 69 .0302 - Definitions	RRC Objection	09/19/96
21 NCAC 69 .0303 - Requirements	RRC Objection	09/19/96
21 NCAC 69 .0304 - Units	RRC Objection	09/19/96
21 NCAC 69 .0305 - Determination of Credit	RRC Objection	09/19/96
21 NCAC 69 .0307 - Exemptions	RRC Objection	09/19/96
21 NCAC 69 .0401 - Code of Professional Conduct	RRC Objection	09/19/96
21 NCAC 69 .0402 - Rules of Conduct of Advertising	RRC Objection	09/19/96

TRANSPORTATION

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<i>19A NCAC 2D .1102 - Definitions</i>	<i>RRC Objection</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>
<i>19A NCAC 2D .1108 - Goals</i>	<i>RRC Objection</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>
<i>19A NCAC 2D .1111 - Performance Related Replacement of Eligible Firms</i>	<i>RRC Objection</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>
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<i>19A NCAC 3E .0511 - Registration of Interstate Authority</i>	<i>RRC Objection</i>	<i>09/19/96</i>
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<i>19A NCAC 6B .0412 - Procurements</i>	<i>RRC Objection</i>	<i>08/15/96</i>
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This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Brenda B. Becton
Sammie Chess Jr.
Beecher R. Gray
Meg Scott Phipps

Robert Roosevelt Reilly Jr.
Dolores Nesnow Smith
Thomas R. West

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Alcoholic Beverage Control Commission v. Beroth Oil Company	96 ABC 0449	Morrison	08/30/96	
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David Lee Grady v. Department of Human Resources	95 CSE 1218	Morrison	03/26/96	
Patrick Orlando Crump v. Department of Human Resources	95 CSE 1221	Nesnow Smith	03/05/96	
Peter Robert Kovolsky v. Department of Human Resources	95 CSE 1230	Becton	03/11/96	
Tony Lee Zapata v. Department of Human Resources	95 CSE 1266	Gray	05/02/96	
Lawrence Dow Dean v. Department of Human Resources	95 CSE 1267	Morrison	03/29/96	
Carl E. Coffey v. Department of Human Resources	95 CSE 1270	Nesnow Smith	03/15/96	
Keith Dewayne Senters v. Department of Human Resources	95 CSE 1273	Phipps	04/01/96	
Lonnie Dawes v. Department of Human Resources	95 CSE 1274	Nesnow Smith	06/12/96	
Mickey Turner v. Department of Human Resources	95 CSE 1278	Nesnow Smith	03/14/96	
James Joseph Gallagher v. Department of Human Resources	95 CSE 1280	Chess	03/19/96	
James Thomas McRae v. Department of Human Resources	95 CSE 1296	Chess	03/15/96	
Vincent E. Kochler v. Department of Human Resources	95 CSE 1301	Phipps	05/09/96	
David J. Moseley v. Department of Human Resources	95 CSE 1304	Chess	03/29/96	
Derrick L. Conyers v. Department of Human Resources	95 CSE 1308	Reilly	03/13/96	
Charles Edward Smith v. Department of Human Resources	95 CSE 1309	West	03/07/96	
Kevin Vereen v. Department of Human Resources	95 CSE 1315	Phipps	05/06/96	
James Curtis Witwer v. Department of Human Resources	95 CSE 1331	Becton	03/26/96	
Thornell Bowden v. Department of Human Resources	95 CSE 1345	Morrison	03/07/96	
Henry S. Sada v. Department of Human Resources	95 CSE 1367	Nesnow Smith	03/21/96	
Charles F. Moore v. Department of Human Resources	95 CSE 1369	Chess	03/27/96	
Daniel Leslie Baker v. Department of Human Resources	95 CSE 1373	Morrison	03/12/96	
Kenneth L. Lindsey v. Department of Human Resources	95 CSE 1375	West	06/24/96	
John L. Pike v. Department of Human Resources	95 CSE 1376	Nesnow Smith	03/21/96	
Wm. R. Evans v. Department of Human Resources	95 CSE 1377	Becton	03/11/96	
Rory J. Curry v. Department of Human Resources	95 CSE 1380	Mann	03/15/96	
Lorin A. Brown v. Department of Human Resources	95 CSE 1382	Reilly	04/18/96	
Marcus Anthony Butts v. Department of Human Resources	95 CSE 1405	Nesnow Smith	03/27/96	
Cynthia Pinder v. Department of Human Resources	95 CSE 1406	Becton	03/11/96	
Rhonnice J. Williams v. Department of Human Resources	95 CSE 1407	Chess	05/06/96	
Ramon Domenech v. Department of Human Resources	95 CSE 1408	Phipps	03/11/96	
Lennard J. Watson v. Department of Human Resources	95 CSE 1414	Mann	08/23/96	
Dennis L. McNeill v. Department of Human Resources	95 CSE 1435	Becton	03/13/96	

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Tony A. Rogers v. Department of Human Resources	95 CSE 1436	Chess	05/16/96	
Rick E. Atkins v. Department of Human Resources	95 CSE 1437	Phipps	04/01/96	
Timothy A. Ratley (Jeanes) v. Department of Human Resources	95 CSE 1465	Morrison	03/26/96	
Richard E. Reader v. Department of Human Resources	95 CSE 1469	Nesnow Smith	04/29/96	
Wendel McDonald v. Department of Human Resources	95 CSE 1470	Becton	07/29/96	
Wilbur Dewayne Bault v. Department of Human Resources	95 CSE 1475	West	03/13/96	
Reginald B. Bratton Sr. v. Department of Human Resources	96 CSE 0002	Mann	08/23/96	
James C. Smith v. Department of Human Resources	96 CSE 0034	Gray	05/10/96	
Ronald D. Johnson v. Department of Human Resources	96 CSE 0084	Nesnow Smith	03/27/96	
Johnny Leary v. Department of Human Resources	96 CSE 0085	Becton	05/03/96	
Jimmy Strickland v. Department of Human Resources	96 CSE 0119	Chess	07/08/96	
John W. Scott v. Department of Human Resources	96 CSE 0130	Mann	03/15/96	
Calvin S. Austin v. Department of Human Resources	96 CSE 0140	Phipps	05/17/96	
Derek Henslee v. Department of Human Resources	96 CSE 0188	Reilly	05/17/96	
Donald L. Carr, Jr. v. Department of Human Resources	96 CSE 0200	West	05/30/96	
Norman Waycaster v. Department of Human Resources	96 CSE 0245	Becton	05/16/96	
Andre Duncan v. Department of Human Resources	96 CSE 0249	Chess	09/25/96	
Lorenzo Wilson v. Department of Human Resources	96 CSE 0257	Phipps	05/06/96	
Mark Kevin Burns v. Department of Human Resources	96 CSE 0271	Morrison	06/24/96	
Cyril Lloyd Payne v. Department of Human Resources	96 CSE 0272	Reilly	05/31/96	
Charles H. Johnson v. Department of Human Resources	96 CSE 0295	West	07/15/96	
Willie James Myers v. Department of Human Resources	96 CSE 0299	Becton	07/19/96	
Christopher F. Byrne v. Department of Human Resources	96 CSE 0336	Chess	06/26/96	
Richard Painall Burch v. Department of Human Resources	96 CSE 0339	Phipps	06/27/96	
Charles Gillispie v. Department of Human Resources	96 CSE 0365	Mann	07/23/96	
Teresa Reynolds v. Department of Human Resources	96 CSE 0369	Gray	07/23/96	
Thornell Bowden v. Department of Human Resources	96 CSE 0370	Morrison	05/17/96	
Kenneth Edward Burns v. Department of Human Resources	96 CSE 0379	Reilly	07/18/96	
Carl R. Ritter v. Department of Human Resources	96 CSE 0380	West	05/08/96	
William Charles Rorie v. Department of Human Resources	96 CSE 0388	Nesnow Smith	08/01/96	
Leon Gibson v. Department of Human Resources	96 CSE 0389	Becton	07/02/96	
Dioni Delvalle, II v. Department of Human Resources	96 CSE 0407	Chess	07/17/96	
Gerald Roger Beachum Jr. v. Department of Human Resources	96 CSE 0411	Phipps	06/24/96	
Anderson I. Wardlow v. Department of Human Resources	96 CSE 0412	Mann	08/05/96	
Daniel J. Carter v. Department of Human Resources	96 CSE 0417	Gray	06/24/96	
Kelvin Tarlton v. Department of Human Resources	96 CSE 0424	Morrison	05/29/96	
Steven Craig Mooney v. Department of Human Resources	96 CSE 0425	Reilly	07/08/96	
John L. Cherry Jr. v. Department of Human Resources	96 CSE 0426	West	06/24/96	
Arthur Jemerson v. Department of Human Resources	96 CSE 0427	Nesnow Smith	08/01/96	
Michael S. Covington v. Department of Human Resources	96 CSE 0428	Becton	08/02/96	
Gary Steele v. Department of Human Resources	96 CSE 0429	Chess	08/26/96	
Terry Sealey v. Department of Human Resources	96 CSE 0430	Phipps	05/29/96	
Jackie L. Kopczick v. Department of Human Resources	96 CSE 0431	Mann	06/05/96	
Virginia McDowell Ramsey v. Department of Human Resources	96 CSE 0464	Gray	08/02/96	
D. Wayne Gray v. Department of Human Resources	96 CSE 0465	Morrison	08/02/96	
Claude R. Anderson v. Department of Human Resources	96 CSE 0502	Reilly	07/22/96	
Alan Kendell Locklear v. Department of Human Resources	96 CSE 0503	West	05/30/96	
Douglas F. McBryde v. Department of Human Resources	96 CSE 0518	Becton	08/19/96	
Thomas White v. Department of Human Resources	96 CSE 0519	Chess	08/29/96	
James Trevor Emerson v. Department of Human Resources	96 CSE 0545	Phipps	07/25/96	
Ray Davis Hood v. Department of Human Resources	96 CSE 0547	Mann	09/12/96	
Leon McNair v. Department of Human Resources	96 CSE 0557	Morrison	08/08/96	
John William White v. Department of Human Resources	96 CSE 0558	Reilly	08/14/96	
Hazel L. Walker v. Department of Human Resources	96 CSE 0559	West	06/24/96	
Tayloria Y. Manns v. Department of Human Resources	96 CSE 0564	Nesnow Smith	08/15/96	
Carl S. McNair v. Department of Human Resources	96 CSE 0568	Becton	06/24/96	
David Agurs v. Department of Human Resources	96 CSE 0580	Chess	06/13/96	
King Sanders Jr. v. Department of Human Resources	96 CSE 0581	Phipps	08/22/96	
Sandra Kay Carpenter v. Department of Human Resources	96 CSE 0595	Gray	08/29/96	
Christopher Clyde Barrino Jr. v. Department of Human Resources	96 CSE 0603	Morrison	08/26/96	
Clinton Sutton v. Department of Human Resources	96 CSE 0629	Reilly	08/29/96	
Dave L. James v. Department of Human Resources	96 CSE 0638	West	07/15/96	
Jonathan Bernard Copper v. Department of Human Resources	96 CSE 0642	Phipps	09/03/96	
Lisa Privette v. Department of Human Resources	96 CSE 0651	Becton	09/30/96	
Franklin D. Deese v. Department of Human Resources	96 CSE 0690	Mann	07/23/96	
Mark Allen Rose Sr. v. Department of Human Resources	96 CSE 0732	Morrison	09/30/96	
Mark P. Crosby v. Department of Human Resources	96 CSE 0733	Reilly	09/30/96	
Renee G. Arriola v. Department of Human Resources	96 CSE 0790	Becton	08/14/96	

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Melinda S. Tunner v. Department of Human Resources	95 DCS 0921	Morrison	05/09/96	
Jeanne G. Bishop v. Department of Human Resources	95 DCS 0958	West	04/04/96	
Rebecca Beaver v. Department of Human Resources	95 DCS 1114	Reilly	04/26/96	
Vivian B. White v. Department of Human Resources	95 DCS 1115	Phipps	06/04/96	
Mary R. Mahon v. Department of Human Resources	95 DCS 1137*	Chess	06/11/96	
Mary R. Mahon v. Department of Human Resources	95 DCS 1142*	Chess	06/11/96	
Laura Heidorf v. Department of Human Resources	96 DCS 0065	Reilly	03/22/96	
Lois Floyd Barber v. Department of Human Resources	96 DCS 0176	Gray	07/30/96	
INSURANCE				
Carol M. Hall v. Teachers & State Employees Comp. Major Medical Plan	95 INS 1141	Phipps	04/01/96	
Arthur Wayne Dempsey v. Department of Insurance	95 INS 1255	Nesnow Smith	04/22/96	
Deborah B. Beavers v. Teachers & St. Emp. Comp. Major Med. Plan	95 INS 1411	Nesnow Smith	05/10/96	11:05 NCR 308
Nadia A. Hakim v. Department of Insurance	95 INS 1422	Nesnow Smith	03/26/96	
Mary Alice Casey v. Department of Insurance	96 INS 0148	Reilly	08/14/96	
JUSTICE				
Wendy Atwood v. Department of Justice (Company Police Program)	96 DOJ 0111	Chess	08/07/96	
Deborah K. Torrance v. Company Police Program Administrator	96 DOJ 0363	Becton	08/14/96	
<i>Education and Training Standards Division</i>				
Freddie Levern Thompson v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 0731	Chess	02/29/96	
Shane Douglas Crawford v. Sheriffs' Ed. & Training Stds. Comm.	95 DOJ 0943	Reilly	05/17/96	
Charles Henry Daniels v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 1070	West	06/12/96	
Valerie Maxine Brewington v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 1129	Nesnow Smith	04/12/96	
Patricia Josephine Bonanno v. Sheriffs' Ed. & Training Stds. Comm.	95 DOJ 1152	Chess	03/25/96	
Douglas Allan Stuart v. Sheriffs' Ed. & Training Stds. Comm.	95 DOJ 1189	Morrison	06/06/96	
Rick M. Evoy v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 1235	Chess	03/25/96	
Windell Daniels v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 1320	Gray	07/24/96	
Gregory Lee Daughtridge v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0027	Reilly	03/19/96	
Sherric Ann Gainey v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0028	Becton	08/09/96	
Stuart Hugh Rogers v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0029	West	06/18/96	
Brian Thomas Craven v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0036	Gray	07/09/96	
Larry D. Weston v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0037	Nesnow Smith	06/12/96	
Carlton Gerald v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0068	Gray	03/26/96	
Ken Montie Oxendine v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0071	West	03/28/96	
James Leon Hunt v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0077	Phipps	07/25/96	
David Kent Knight v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0115	West	03/28/96	
Demetrius Arnez Brown v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0138	Becton	08/09/96	
Claude F. Nunnery v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0305	Gray	08/28/96	
John Charles Maloney v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0306	Nesnow Smith	08/16/96	
Jimmie L. Cooper v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0352	Morrison	07/12/96	
Jerry Glenn Monette v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0420	Morrison	07/26/96	11:10 NCR 874
Carlton Gerald v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0432	Becton	08/07/96	
Warren Scott Nail v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0576	Becton	08/07/96	
George Willie Gilliam v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0656	Morrison	08/02/96	
Glenn R. Brammer v. Sheriffs' Ed. & Training Standards Comm.	96 DOJ 0839	Nesnow Smith	09/05/96	
Timothy Wayne Fulford v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0840	Nesnow Smith	09/16/96	
Brent Lee Millsaps v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0841	Chess	09/24/96	
<i>Private Protective Services Board</i>				
Timothy A. Hawkins v. Private Protective Services Board	95 DOJ 1419	West	04/12/96	
William F. Combs v. Private Protective Services Board	96 DOJ 0022	West	03/22/96	
Randy C. Hoyle v. Private Protective Services Board	96 DOJ 0024	Nesnow Smith	06/10/96	
Robert A. Gibson v. Private Protective Services Board	96 DOJ 0386	Nesnow Smith	07/03/96	
Jimmy D. Matthews v. Private Protective Services Board	96 DOJ 0676	Reilly	07/11/96	
Johnnie Lee King v. Private Protective Services Board	96 DOJ 0677	Reilly	07/11/96	
Thomas R. Harris v. Private Protective Services Board	96 DOJ 0761	Reilly	07/11/96	
Private Protective Services Board v. Henry E. Byrd, Jr.	96 DOJ 0796	Mann	08/19/96	
Private Protective Services Board v. Charles T. Mathis	96 DOJ 0798	Mann	08/27/96	
MEDICAL BOARD				
Medical Board v. Martin A. Hatcher, M.D.	92 BME 0510	Gray	06/28/96	11:08 NCR 555

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PUBLIC INSTRUCTION				
Lavern K. Suggs v. NC Board of Education	95 EDC 0383	Nesnow Smith	03/13/96	11:01 NCR 50
J.T.S. & T.S., Parents of E.M.S. v. Chapel Hill-Carrboro City Schl. Sys.	95 EDC 1194	Mann	04/12/96	
L.O. v. Charlotte-Mecklenburg Board of Education	96 EDC 0285	Mann	05/31/96	
Candyce Ewanda Newsome v. Hertford County Board of Education	96 EDC 0344	Chess	05/15/96	
W. and G.B., on Behalf of C.B. v. Winston-Salem/Forsyth Cty. Schools	96 EDC 0349	Mann	09/03/96	
Cyvonne Rush Bryant v. NC State Board of Education	96 EDC 0591	Becton	09/11/96	
Blaise Malveau v. Cumberland County Board of Education	96 EDC 0613	Chess	08/14/96	
Blaise Malveau v. Cumberland County Board of Education	96 EDC 0614	Chess	08/14/96	
John Barlow v. Watauga County Board of Education	96 EDC 0623	Reilly	07/24/96	
John L. Archer v. Department of Public Instruction	96 EDC 0678	Nesnow Smith	08/02/96	
Pamela F. Cummings v. Department of Public Instruction	96 EDC 0742	Nesnow Smith	08/16/96	
Susie Whitley/Brandon Whitley v. Charlotte-Mecklenburg Bd. of Ed.	96 EDC 0964	Chess	09/17/96	
Michael Wayne Geter v. Charlotte-Mecklenburg School Board	96 EDC 1036	West	09/23/96	
STATE PERSONNEL				
<i>Department of Administration</i>				
Jimmie A. Hughes, Jr. v. Department of Administration	96 OSP 0008	Reilly	07/23/96	
Jonathan L. Fann v. Department of Administration, Admin. Personnel	96 OSP 0042	Gray	05/24/96	
Carlton Gerald v. State Capitol Police, Department of Administration	96 OSP 0116	Gray	04/25/96	
<i>Administrative Office of the Court</i>				
Ethel R. Tyson v. NC Judicial Dept., Administrative Office of the Court	96 OSP 0080	Nesnow Smith	03/15/96	
<i>Appalachian State University</i>				
Janice S. Walton v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0062	West	03/13/96	
Janice S. Carroll v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0063	West	03/07/96	
<i>Caldwell County</i>				
Blake C. Pace v. Caldwell County	96 OSP 0047	Morrison	04/01/96	
<i>NC Central University</i>				
Francina Y. Tate v. Chancellor Julius L. Chambers, NC Central Univ.	95 OSP 1432	Nesnow Smith	04/22/96	
<i>Central North Carolina School for the Deaf</i>				
Felicia S. Milton v. Central North Carolina School for the Deaf	95 OSP 1241	Chess	05/17/96	
<i>Department of Correction</i>				
Haydee Craver v. Department of Correction, Pender Correctional Inst.	95 OSP 1046	Gray	03/12/96	
Gregory Allen Jones v. Department of Correction, Supt. Bonnie Boyette	95 OSP 1290	Phippa	05/14/96	
Carolyn Check v. Department of Correction	95 OSP 1441	Nesnow Smith	09/19/96	
Calvia L. Hill v. Department of Correction, McCain Correctional Hospital	95 OSP 1460	Gray	05/17/96	
Alisha Louise Staley v. Randolph Correctional Center	96 OSP 0092	Gray	06/03/96	
Brenda Propst v. Foothills Correctional Institution	96 OSP 0199	Morrison	04/09/96	
Delon D. Solomon v. Department of Correction	96 OSP 0258	West	07/02/96	
Alisha Louise Staley v. Randolph Correctional Center	96 OSP 0261	Morrison	08/05/96	
Haydee C. Craver v. Department of Correction, Christopher Phillips	96 OSP 0348	Phipps	05/15/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0372**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0373**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0374**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0375**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0376**	Nesnow Smith	07/05/96	
Rebecca A. Faison v. Department of Correction for Women	96 OSP 0383	Becton	10/01/96	
Calvia L. Hill v. Department of Correction, McCain Correctional Hospital	96 OSP 0397	Gray	08/15/96	

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Tony R. Broffman v. Department of Correction	96 OSP 0625	Becton	08/29/96	
Mary Hargraves v. Department of Correction	96 OSP 0674	Nesnow Smith	09/05/96	
Michael S. Doe v. Caswell Center	96 OSP 0691	Phipps	09/23/96	
Timothy L. Willis v. Caswell Correctional Center	96 OSP 0715	West	07/30/96	
<i>Department of Crime Control and Public Safety</i>				
Jerry Lee Fields v. State Highway Patrol	94 OSP 1174* ¹⁰	Gray	08/05/96	
Gene Wells v. Crime Control & Public Safety, State Highway Patrol	95 OSP 0249* ⁹	Nesnow Smith	07/23/96	
Jerry Lee Fields v. State Highway Patrol	95 OSP 0836* ¹⁰	Gray	08/05/96	
Gene Wells v. Crime Control & Public Safety, State Highway Patrol	95 OSP 1050* ⁹	Nesnow Smith	07/23/96	
<i>Durham County Health Department</i>				
Lylla D. Stockton v. Durham County Health Department	95 OSP 0176	West	07/02/96	
<i>East Carolina University</i>				
Gregory Lapicki v. East Carolina University	94 OSP 1721	Reilly	09/26/96	
Bela E. Karvaly, Ph.D. v. ECU Bd. of Trustees, Ch. Richard R. Eakin	96 OSP 0150	Chess	05/08/96	
<i>Employment Security Commission</i>				
Gene S. Baker v. Gov. James B. Hunt, Jr., Ann Q. Duncan, Chairman, Employment Security Commission	93 OSP 0707	Becton	05/16/96	11:05 NCR 300
William Herbert Allen v. Employment Security Commission	94 OSP 1688	West	06/11/96	
Patricia Gary v. Employment Security Commission	95 OSP 0793	Chess	05/14/96	
Tonderlier Lynch v. Emp. Security Comm., Austin Quality Foods, Inc.	96 OSP 0275	Chess	05/21/96	
<i>Department of Environment, Health, and Natural Resources</i>				
Roberta Ann "Robin" Hood v. Environment, Health, & Natural Resources	95 OSP 0035	Reilly	04/09/96	
Kathy B. Vinson v. Dept. of Environment, Health, & Natural Resources	95 OSP 0203	Gray	09/18/96	11:13 NCR 1087
<i>Fayetteville State University</i>				
William C. Neal v. Fayetteville State University	95 OSP 0392	Nesnow Smith	04/22/96	
<i>Guilford County Area Mental Health, Developmental Disabilities and Substance Abuse</i>				
Stuart Klatte v. Guilford Cty Area MH/DD/SAS, St. Per Comm, OSP	95 OSP 1179	Nesnow Smith	07/19/96	11:10 NCR 865
<i>Department of Human Resources</i>				
Ophelia Webb v. Edard R. Inman, Dir. Alamance Cty DSS, Alamance Cty DSS, Alamance County, and DHR	96 OSP 0112	Gray	03/13/96	
Gail Marie Rodgers Lincoln v. DHR, DMH/DD/SAS-Cherry Hosp., Cherry Hospital	96 OSP 0159	Chess	06/17/96	
Cynthia D. Hickman v. DHR, Central School for the Deaf	96 OSP 0191	Becton	09/23/96	
Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0217	Reilly	08/13/96	
Mary A. Boogaerts v. Cherry Hospital, Goldsboro, NC	96 OSP 0269	Becton	05/29/96	
Kelvin Parter v. Dorothea Dix Hospital	96 OSP 0294	Chess	08/07/96	
Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0543	Reilly	07/09/96	
Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0590	Reilly	07/09/96	
Kim A. Bell v. Walter B. Jones Alcohol & Drug Abuse Treatment Center	96 OSP 0597	Becton	09/11/96	
Lynn S. Hales v. John Umstead Hospital	96 OSP 0729	West	10/02/96	
<i>Buncombe County Department of Social Services</i>				
Kathy Davis v. Buncombe County Department of Social Services	95 OSP 1487	West	08/09/96	
<i>Caswell Center</i>				
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	89 OSP 0411	Becton	03/26/96	
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	91 OSP 0522	Becton	03/26/96	11:02 NCR 89
Franklin D. Sutton v. Department of Human Resources, Caswell Center	94 OSP 0766	Nesnow Smith	03/21/96	
<i>Durham County Department of Social Services</i>				

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Jan E. Smith v. Durham County Department of Social Services <i>Halifax County Department of Social Services</i>	95 OSP 1121	Morrison	05/24/96	
Clairbel Thomas v. Halifax County DSS & Director, Halifax County DSS <i>Haywood County Department of Social Services</i>	95 OSP 0905	West	05/29/96	11:06 NCR 395
Carol Hubbard v. Haywood County Department of Social Services <i>Division of Medical Assistance</i>	95 OSP 1084	Reilly	08/30/96	11:13 NCR 1092
Harold Wiggins v. Division of Medical Assistance <i>O'Berry Center</i>	95 OSP 1482	West	06/11/96	
Samuel Geddie v. O'Berry Center <i>Rockingham County Department of Social Services</i>	96 OSP 0414	Morrison	06/13/96	
Lorretta Lawson v. Rockingham County DSS <i>Wake County Department of Social Services</i>	96 OSP 0471	West	06/13/96	
Phyllis Gilbert v. Wake County Department of Social Services <i>Department of Insurance</i>	95 OSP 1238	Phipps	06/27/96	
Larry W. Creech v. Department of Insurance <i>Department of Labor</i>	95 OSP 0631	Reilly	06/06/96	11:07 NCR 434
Kevin P. Kolbe, Sr. v. Department of Labor <i>New Hanover County Board of Health</i>	95 OSP 0968	Morrison	03/14/96	11:01 NCR 58
Tabandeh Zand v. New Hanover County Board of Health <i>Department of Public Instruction</i>	95 OSP 1035	Nesnow Smith	03/01/96	
Johnny Leak v. Public Schools of NC, Dept. of Public Instruction McLennard Jay v. Person County Schools	96 OSP 0861 96 OSP 0862	Phipps Phipps	09/05/96 09/04/96	
<i>Sandhill Community College</i>				
Earl Levon Womack v. Sandhill Community College Bd. of Trustees <i>Office of the State Controller</i>	96 OSP 0573	Phipps	07/25/96	
Angela M. Terry v. Office of the State Controller <i>North Carolina State University</i>	96 OSP 0402	Becton	08/07/96	
Vernell Mitchell v. North Carolina Cooperative Extension <i>Department of Transportation</i>	96 OSP 0132	Gray	05/10/96	
Pearlie M. Simuel-Johnson v. Department of Transportation Dorothy J. Grays v. Div. of Motor Vehicles, Dept. of Transportation	94 OSP 0589* ¹ 94 OSP 1044	Gray Reilly	03/01/96 04/12/96	11:03 NCR 173
Pearlie M. Simuel-Johnson v. Department of Transportation Lisa Ann Lee v. Department of Transportation	95 OSP 0837* ¹ 95 OSP 1099	Gray Reilly	03/01/96 07/31/96	
Melvin Duncan v. Department of Transportation Greg Brown v. Department of Transportation	95 OSP 1462 96 OSP 0048	Morrison Reilly	03/08/96 05/02/96	
Jesse Wayne Castle v. State Highway Maint., Guess Rd., Durham, NC	96 OSP 0087	Gray	04/15/96	

* Consolidated cases.

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Archie Brooks v. W. F. Rosser, Department of Transportation	96 OSP 0239	Nesnow Smith	05/17/96	
Jessie L. Allen et al. v. DMV Enforcement Section	96 OSP 0408	Becton	08/12/96	
R.L. Singleton v. Department of Transportation	96 OSP 0683	Becton	08/12/96	
Stephanie Taylor v. Department of Motor Vehicles	96 OSP 0955	Becton	08/29/96	11:13 NCR 1095
<i>Tri-County Mental Health Complex</i>				
Deborah Heil v. Tri-County Mental Health Complex	95 OSP 1100	Nesnow Smith	03/22/96	
<i>University of North Carolina</i>				
Pamela B. Edwards v. University of North Carolina at Chapel Hill	95 OSP 0842	Chess	06/28/96	
Keith R. Cameron v. University of North Carolina at Chapel Hill	95 OSP 1060	Morrison	06/24/96	
Jerel H. Bonner v. School of Nursing UNC at Chapel Hill	96 OSP 0026	Gray	03/12/96	11:01 NCR 61
Bela E. Karvaly, Ph.D. v. UNC Bd. of Gov., Pres. C.D. Spangler, Jr.	96 OSP 0151	Chess	05/08/96	
Carl E. Whigham v. UNC Hospitals at Chapel Hill	96 OSP 0248	Chess	06/11/96	
J. Scott Spears v. Ralph Pederson and UNC-C	96 OSP 0548	Chess	08/30/96	
Nellie Joyce Ferguson v. UNC Physicians & Assoc., Charles Foskey, Dir.	96 OSP 0977	Phipps	10/02/96	
<i>Wake County Board of Health</i>				
Debbie L. Whitley v. Env. Health Div. Wake Cty. Dept. of Health	96 OSP 1090	Nesnow Smith	09/05/96	
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Donald B. Durham v. Teachers' & St. Employees Retirement Sys.	92 DST 1066	Chess	07/17/96	11:09 NCR 810
UNIVERSITY OF NORTH CAROLINA				
Sylvia Jeffries v. University of NC Hospitals at Chapel Hill	96 UNC 0067	Gray	04/16/96	
James E. Boudwin v. University of NC Hospitals at Chapel Hill	96 UNC 0343	Chess	07/22/96	
Rufus T. Moore Jr. v. UNC Hospital	96 UNC 0470	Reilly	08/12/96	
Marcia Spruill v. UNC Hospitals - Patient Accounts	96 UNC 0500	Becton	07/10/96	
Charles E. Houlk v. UNC Hospitals	96 UNC 0588	Morrison	08/09/96	

V.

RECOMMENDED DECISION

**DIVISION OF ENVIRONMENT MANAGEMENT,
NC DEPT. OF ENVIRONMENT, HEALTH, AND
NATURAL RESOURCES,
Respondent.**

FINDINGS OF FACT

10. On August 10, 1994, Frank Corriher, Ricky Corriher, and Lt. R.J. Rogers went to the Smith residence unannounced. The Rowan County Sheriff had asked Lt. Rogers to go with Mr. Corriher. Lt. Rogers has been with the

Rowan County Sheriff's Department for thirty years. No one was present from the Respondent's office. Mr. Corriher noticed that the well was being run on 110 electricity instead of 220. He changed this and ran the pump for 45 minutes. There was also no cover on the well. Lt. Rogers observed that the water looked clear in the cup. Rogers then left because he did not anticipate any problems. Mr. Smith was not there. Frank Corriher testified that the water was clear in the cup except for some iron which is common. He took three samples. The sample which was sent to an independent laboratory, Hydrologic, Inc., had 6.4 mg/l of total suspended solids. Mr. Corriher was and is still convinced that Mr. Smith was putting mud in the well.

11. Mr. Smith later called Mr. Corriher and "cussed him out." Mr. Corriher hung up. Mr. Smith called back and later called him at home and told him he was going to "send 200 bikers over there." Smith told him never to come onto his property again.

12. On August 30, 1994, Frank Corriher and Lt. Rogers went to the Smith property to check the well. Francis Smith was present as well as Jerry Sherill. Paul Dahlen was present for the Respondent. Lt. Rogers left because Mr. Smith was not there and he did not think there would be any problems. Mr. Dahlen's inspection log shows that after the water was run for 15 minutes, the turbidity was 32 NTUs. After 1 hour, the turbidity was 84 NTUs and after 1 hour and 15 minutes, the turbidity was 42.8 NTUs. Mr. Corriher and Francis Smith agreed to run the water for 24 hours. On August 31, 1994, the turbidity was 19.9 NTUs. Mr. Dahlen testified that he did not know if the water had been run for 24 hours. Mr. Sherill testified that Mr. Corriher advised Francis Smith to run the water to "pump it off." Francis Smith told him that Mr. Smith would not do it.

13. Barbara Christian has been the Regional Groundwater Supervisor in the Mooresville Regional Office for 7 years. According to Barbara Christian's telephone log on September 14, 1994, Frank Corriher told her that, "long story; [Paul [Dahlen] says when he's going out & Smith puts mud in well; [Smith] doesn't want well fixed - \$1600 paid for it - wants \$3400 for it; can't be dealt w/fairly by Paul due to past run in; talk w/Bob Martin only at Sheriff's Dept.; hit rock at [around] 12' but put 35' of casing & grouted full length; if well is pumped off, will be clear."

14. On September 15, 1994, Paul Dahlen and Barbara Christian made an unannounced visit to inspect the Smith well at the request of Mr. Corriher. Although it was unusual to make an unannounced visit, they believed it might be warranted in this case. Initial inspection showed 8-9 NTUs of turbidity. As they were prepared to leave, Mr. Smith told them they should come back that night and check it. It occurred to Ms. Christian that the well should be checked at peak usage. They proceeded to turn on the faucets outside, at the sink, and in the bathroom. After running the water for five minutes, the water had 78 NTUs.

15. On September 19, 1994, Barbara Christian made the following notation regarding a telephone call with Mr. Corriher: [Corriher] "doesn't want to take his crew in & get into trouble there; [Christian] can arrange for one MRO staff to be on site; but penalty will be assessed."

16. On December 19, 1994, Respondent assessed a civil penalty in the amount of \$760.00 against the Petitioner for violation of 15A NCAC 2C .0107(h)(2)(B) for "failing to develop a well such that the water contained no more than 10 NTUs of turbidity as suspended solids during the period of August 8, 1994 through September 15, 1994, a total of 38 days, based upon a penalty of \$20.00 a day."

17. The Respondent also considered the factors set out in G.S. 143B-282.1(b) in determining the amount of the penalty. The only factor found to be "significant" was the duration of the violation. Also "moderately significant" was the amount of money saved by noncompliance. All other factors were considered as "not significant." These assessment factors are used to determine the degree and extent of harm to the natural resources. The range of assessment extends from "not significant" to "extremely significant" with "significant" being in the middle.

18. Mr. Smith testified that he does take a shower in the water but he drinks bottled water. His toilet turns orange. He cannot rent his other trailer which is on the same well due to the water.

19. Barbara Christian testified as an expert in well construction rules and the application and interpretation of those rules. She stated muddy water is not a public health hazard but that it was a nuisance to the homeowner. She stated that this well had a yield of 35 gallons per minute. This was a very good well because most in this area averaged 5 gallons per minute. She further testified that high NTUs indicates that the well was not properly developed. "Developing" a well means flushing the well of sediment that is in there as a result of building the well. Indications from the well construction record shows that the well met minimum requirements for construction. If sediment is getting into the well, a liner can be

placed in the well to cut this off.

20. Ms. Christian further testified that Mr. Corriher's lab sample of 6.4 mg/l of total suspended solids shows that the well was not properly developed also because prior to December 1, 1992, Respondent used "total suspended solids" as the standard of measure and the standard was 5. The rules were later changed so that a driller could test in the field and the standard of measure became 10 NTUs of turbidity.

21. Danny Corriher testified that the well was 223' deep. When he dug the well, he encountered no problems; he saw no fractures. He further testified that to develop this well, water was pumped in from a water truck and the well was washed out. He observed that the water for this well was clear. Mr. Corriher testified that he has worked with his father since 1970 and only once has he had a problem with a well that was not discovered at the time the well was dug. He testified that he went back and fixed that well but that, in this case, they have not been given an opportunity to repair this well if in fact there is a problem.

22. Ricky Corriher testified that he was present when the well was dug and observed no problems. The water was clear and clean. He went with his father and Lt. Rogers on the first visit back to the Smith home on August 10, 1994. The water was pumped for 45 minutes. It was clear and his father drank some of it. Mr. Smith was not there at the time and was not aware they were there.

23. All of the Corrihers who testified stated that they never received a complaint regarding mud in the well until after Mr. Smith was required to pay the judgment the Corrihers obtained against him. The Corrihers had tried numerous times by mail and by telephone to contact Mr. Smith regarding payment prior to the collection proceedings. Mr. Smith did not appear at the collection proceeding. Mr. Smith paid the judgment in May 1994 after being advised by Lt. Rogers that collection could include selling his property. The first complaint received by the Respondent was in June 1994. The first complaint received by the Petitioner was after Smith had contacted the Respondent. Smith told the Petitioner that he was going to contact the news media and ruin their reputation.

24. Barbara Christian testified that, although there are no rules on the length of time a contractor can be penalized, the agency has an unwritten policy that if the well is older than one year, the contractor would not be assessed. If electricity was not hooked up, the one year would not begin to run until it was. They would go past the one year if the owner has been cooperating with the contractor and the contractor has been intentionally delaying the remediation. Apparently, no policy or procedure exists for the situation, as has occurred in this case, where the owner does not cooperate with the contractor but the contractor is cooperative.

25. No direct evidence was presented by either party as to the causation of sediment in this particular well. Because the NTUs were high on several occasions and normal on other occasions, assumptions were made by both parties. Barbara Christian testified that in her expert opinion, the well was not developed or "flushed out" properly at the time the well was dug. She did testify that an experienced well driller could tell the difference between drill cuttings in the water and sediment but that a distinction could not be made between mud from the surface or below. Mr. Corriher testified as an experienced driller and stated that in his opinion, dirt and "ropey red" mud he observed coming from a hose did not come from the well. Mr. Corriher's opinion is admitted pursuant to G.S. 8C-1, Rule 701, is rationally based and is helpful to determine the facts in this case. Mr. Corriher also believed that probably all that the well needed was to be pumped until it cleared.

26. Testimony from the Corrihers regarding the threats made by Mr. Smith are found as fact. At the hearing, although Mr. Smith was calm on the stand, he did threaten a witness as the witness left the stand. Mr. Smith also made faces and gestures to the undersigned and witnesses. It is understandable why the Petitioner would not want to go back to the site.

Based upon the foregoing Findings of Fact, the undersigned makes the following:

CONCLUSIONS OF LAW

1. Petitioner is a "well driller" or "water well contractor" as those terms are defined in G.S. 87-85(15).

2. 15A 2C.0107(h)(2)(B) provides that development of the well "shall include removal of formation materials, mud, drilling fluids and additives such that the water contains no more than....(B) ten NTUs of turbidity as suspended solids."

3. An order describing remedial action is discretionary with the Respondent and was properly given in this case in the August 5, 1994 Notice of Violation pursuant to G.S. 87-91(b). G.S. 87-94(b) provides that no penalty shall be assessed until the person alleged to be in violation has been informed of the violation, notified of remedial action, which if taken within thirty days from receipt of the notice, will effect compliance, and warned that a penalty could be assessed for failure to comply. The Respondent followed proper procedure with the Notice of Violation.

4. Although no evidence substantially proves that the Petitioner failed to develop the well properly, the samples do show NTUs over ten. The Well Construction Act appears to apply a strict liability standard to well drillers without any consideration of other possibilities. However, the law does allow the violator to have thirty days to correct the problem. In this case, Mr. Corriher, while not believing he caused the problem, attempted to determine the problem within the thirty days following receipt of the notice. The owner of the property made believable threats which prevented the Corrihers from complying with the Notice of Violation other than to put the identification plate on the well. Assessment of a penalty is discretionary. To do so in this circumstance is arbitrary and capricious. A common sense approach should be considered in this case as was done in Puerto Rico Sun Oil v. EPA, 8 F.3d 73, 77 (1st Cir. 1993):

Agencies...are normally entitled to substantial deference so long as their decisions do not collide directly with substantive statutory commands and so long as procedural corners are squarely turned. This deference is especially marked in technical areas. But in the end an agency decision must also be rational- technically speaking, it must not be "arbitrary or capricious,"... The requirement is not very hard to meet, but it has not been met here.

The Respondent in this case followed the procedural and statutory commands of the Well Construction Act. However, it acted erroneously and capriciously when it assessed the penalty in this case. G.S. 150B-23(a)(2)&(4).

5. Another rational basis for not assessing a penalty in this matter is the fact that the well had been constructed over fourteen months before the first complaint was made to the Respondent. Also no complaints had been made to the Petitioners until after they obtained satisfaction on a collection judgment and after a complaint was made to the Respondent. Also the well was not put into operation for months after construction. These factors make the assessment of a penalty in this case erroneous and capricious. G.S. 150B-23(a)(2)&(4).

6. Apparently, the Respondent has a policy for not assessing penalties if the problem arises more than a year after construction or electrical hook-up; however, there is no written rule, policy or guideline regarding this. To assess a penalty in this situation merely because the complaint was made to the Respondent more than a year after construction but within one year of electrical hook-up would mean that the Respondent has exceeded its statutory authority by applying an unwritten guideline to persons that the law is intended to direct, guide and assist. G.S. 150B-23(a)(1).

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned makes the following:

RECOMMENDED DECISION

It is recommended that the Environmental Management Commission use its discretion not to assess a penalty against the Petitioner in light of the substantial evidence which shows that the Petitioner has not been given an opportunity to comply nor an opportunity to determine the cause of the turbidity in the water, and also because of the length of time between the construction of the well and the complaint.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P. O. Drawer 27447, Raleigh, NC 27611-7447, in accordance with G.S. 150B-36(b).

NOTICE

The agency making the final decision in this contested case is the Environmental Management Commission. The Commission is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a). The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record.

This the 20th day of September, 1996.

Meg Scott Phipps
Administrative Law Judge

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural Resources	Hearing Aid Dealers and Fitters	22
16	Public Education	Landscape Architects	26
17	Revenue	Landscape Contractors	28
18	Secretary of State	Marital and Family Therapy	31
19A	Transportation	Medical Examiners	32
20	Treasurer	Midwifery Joint Committee	33
		Mortuary Science	34
*21	Occupational Licensing Boards	Nursing	36
22	Administrative Procedures	Nursing Home Administrators	37
23	Community Colleges	Occupational Therapists	38
24	Independent Agencies	Opticians	40
25	State Personnel	Optometry	42
26	Administrative Hearings	Osteopathic Examination & Reg. (Repealed)	44
27	NC State Bar	Pastoral Counselors, Fee-Based Practicing	45
		Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Practicing Psychologists	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
		Therapeutic Recreation Certification	65
		Veterinary Medical Board	66

Note: Title 21 contains the chapters of the various occupational licensing boards.

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					Action	Date				

This index provides information related to notices, rules and other documents published in the Register. The information provided below includes notices and rules published on or after December 1, 1995 and will be cumulative through March 1997. For assistance contact the Rules Division at 919/733-2678.

Fiscal Note: S = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. * = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

ACUPUNCTURE LICENSING BOARD

21 NCAC 01 .0301		10:22 NCR 2860								
21 NCAC 01 .0705	10:17 NCR 2228		10:22 NCR 2834	*	Approve	04/18/96	*		11:04 NCR 220	
21 NCAC 01 .0709	10:17 NCR 2228		10:22 NCR 2834	*	Approve	04/18/96	*		11:04 NCR 220	

ADMINISTRATIVE HEARINGS

Hearings Division

26 NCAC 03 .0301	11:03 NCR 110		11:09 NCR 588	*						
26 NCAC 03 .0302	11:03 NCR 110		11:09 NCR 588	*						
26 NCAC 03 .0303	11:03 NCR 110		11:09 NCR 588	*						
26 NCAC 03 .0304	11:03 NCR 110		11:09 NCR 588	*						
26 NCAC 03 .0305	11:03 NCR 110		11:09 NCR 588	*						

Rules Division

26 NCAC 02C .0102	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0103	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0111	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0307	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0401	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0502	11:09 NCR 570		11:13 NCR 1058	*						

ADMINISTRATION

1 NCAC 39 .0101	10:16A NCR 1672		11:14 NCR 1111	*						
1 NCAC 39 .0201	10:16A NCR 1672		11:14 NCR 1111	*						

State Building Commission

1 NCAC 30G .0101		11:04 NCR 194								
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1 NCAC 30G .0103		11:04 NCR 194								
1 NCAC 30G .0104		11:04 NCR 194								
1 NCAC 30G .0105		11:04 NCR 194								
AGRICULTURE										
2 NCAC 09C .0701	10:24 NCR 3056	11:05 NCR 282	11:06 NCR 324	*						
2 NCAC 09C .0702	10:24 NCR 3056	11:05 NCR 282	11:06 NCR 324	*						
2 NCAC 09C .0704	10:24 NCR 3056	11:05 NCR 282	11:06 NCR 324	*						
2 NCAC 48A .0206	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .0211	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .0214	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .1103	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .1110	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0112	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0114	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0119	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0120	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 52B .0200	11:14 NCR 1107									
2 NCAC 52B .0201	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 52B .0300	11:14 NCR 1107									
2 NCAC 52C .0700	11:14 NCR 1107									
Marketing Authority										
2 NCAC 43F	11:14 NCR 1107									
2 NCAC 43H	11:14 NCR 1107									
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2 NCAC 48F .0301	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0302	11:07 NCR 407		11:11 NCR 883	*						

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2 NCAC 48F .0305	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0306	11:07 NCR 407		11:11 NCR 883	*						
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4 NCAC 01E	11:09 NCR 569									
4 NCAC 01F	11:09 NCR 569									
4 NCAC 01H	11:09 NCR 569									
4 NCAC 01I	11:09 NCR 569									
4 NCAC 01J	11:09 NCR 569									
4 NCAC 01K	11:09 NCR 569									
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4 NCAC 01K .0501	11:09 NCR 569									
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4 NCAC 01K .0503	11:09 NCR 569									
4 NCAC 01K .0504	11:09 NCR 569									
4 NCAC 01K .0505	11:09 NCR 569									
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4 NCAC 19L .0401	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0403	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0404	11:09 NCR 569		11:14 NCR 1113	*						
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4 NCAC 19L .0505	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0706	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0707	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0708	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0802	11:09 NCR 569		11:14 NCR 1113	*						

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4 NCAC 19L.0901	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.0906	11:09 NCR 569		11:14 NCR 1113	*						
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4 NCAC 19L.0911	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1002	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1004	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1009	11:09 NCR 569		11:14 NCR 1113	*						
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4 NCAC 19L.1303	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1701	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1702	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1703	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1801	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1802	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1803	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1804	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1805	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1900	11:09 NCR 569		11:14 NCR 1113	*						
Credit Union Division										
4 NCAC 06C.0205	10:18 NCR 2398									
4 NCAC 06C.0407	10:18 NCR 2398									
4 NCAC 06C.0409	10:18 NCR 2398									
Energy										
4 NCAC 12C.0007					Approve	07/18/96			11:10 NCR 843	
State Ports Authority										

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4 NCAC 13A .0101	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13A .0102	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13A .0105	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13A .0202	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13A .0203	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13A .0204	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13B .0001	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13B .0002	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13B .0003	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13B .0004	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13B .0005	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13C .0001	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13D .0101	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0101	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0102	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0103	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0201	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0202	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0301	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0302	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0401	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0402	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0403	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0404	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0405	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0501	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0502	10-24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0601	10-24 NCR 3056		11:13 NCR 1040	*						

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4 NCAC 13E .0602	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0603	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0701	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0702	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0801	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0803	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0901	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0902	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13F .0301	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13F .0302	10:24 NCR 3056		11:13 NCR 1040	*						
COMMUNITY COLLEGES										
23 NCAC 02D .0325	10:24 NCR 3058		11:09 NCR 585	*						
23 NCAC 02E .0203	10:24 NCR 3058		11:09 NCR 585	*						
23 NCAC 03A .0113	10:24 NCR 3058		11:09 NCR 585	*						
CULTURAL RESOURCES										
USS North Carolina Battleship Commission										
7 NCAC 05 .0202	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0203	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0204	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0207	10:18 NCR 2398		11:04 NCR 188	*						
ENVIRONMENT, HEALTH, AND NATURAL RESOURCES										
15A Public Notice										11:01 NCR 2
15A Public Notice										11:09 NCR 590
15A NCAC 01K	10:19 NCR 2506									
15A NCAC 01M .0101		11:06 NCR 368								
15A NCAC 01M .0102		11:06 NCR 368								
15A NCAC 01M .0201		11:06 NCR 368								
15A NCAC 01M .0202		11:06 NCR 368								

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15A NCAC 01M .0301		11:06 NCR 368								
15A NCAC 01M .0302		11:06 NCR 368								
15A NCAC 01M .0303		11:06 NCR 368								
15A NCAC 01M .0304		11:06 NCR 368								
15A NCAC 01M .0305		11:06 NCR 368								
15A NCAC 01M .0306		11:06 NCR 368								
Coastal Resources Commission										
15A NCAC 07	11:04 NCR 183									11:09 NCR 575
15A NCAC 07H .0104	10:24 NCR 3045		11:07 NCR 409	*						
15A NCAC 07H .0106	10:16 NCR 1921		11:04 NCR 190	*	Approve	09/19/96	*			11:09 NCR 575
15A NCAC 07H .0208	11:04 NCR 183		11:11 NCR 907	*						Notice Subject Matter
15A NCAC 07H .0304	10:24 NCR 3045		11:07 NCR 409	*						
15A NCAC 07H .0306	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .0309	11:08 NCR 442		11:12 NCR 981	*						
15A NCAC 07H .1104	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1202	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1204	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1205	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1304	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1404	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1504	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1704	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1804	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1904	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .2004	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .2104	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07J .0102	10:24 NCR 3045		11:04 NCR 190	*						
15A NCAC 07K .0203	11:04 NCR 183		11:11 NCR 907	*						

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15A NCAC 07M .0301	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0302	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0303	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0304	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0305	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0306	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0307	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0308	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0309	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0401	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0402	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0403	10:16B NCR 1921		11:11 NCR 907	*						
Environmental Management Commission										
15A NCAC 02	10:24 NCR 3045									
15A NCAC 02	11:04 NCR 183									
15A NCAC 02B .0223	11:02 NCR 75									
15A NCAC 02B .0223	11:03 NCR 109									
15A NCAC 02B .0224	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0227	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0229	11:03 NCR 109		11:09 NCR 572	*						
15A NCAC 02B .0231	11:02 NCR 75		11:10 NCR 824	L/S/E						
			11:14 NCR 1136							
15A NCAC 02B .0232	11:02 NCR 75		11:10 NCR 824	L						
			11:14 NCR 1136							
15A NCAC 02B .0233	11:02 NCR 75		11:10 NCR 824	L						
			11:14 NCR 1136							
15A NCAC 02B .0234	11:02 NCR 75		11:10 NCR 824	*						
			11:14 NCR 1136							
15A NCAC 02B .0235	11:02 NCR 75		11:10 NCR 824	*						
			11:14 NCR 1136							

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15A NCAC 02B .0236	11-02 NCR 75		11:10 NCR 824 11:14 NCR 1136	L						
15A NCAC 02B .0303	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0315	11-02 NCR 75		11:09 NCR 572	L						
15A NCAC 02D .0518	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0524	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0530	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0902	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0907	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0909	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0910	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0911	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0946	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0954	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1100	11-08 NCR 442		11:08 NCR 472	*						
15A NCAC 02D .1110	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1111	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1402	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1403	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02H .0610	11-08 NCR 442									
15A NCAC 02L .0106		10:19 NCR 2508								
15A NCAC 02L .0202	10:20 NCR 2591									
15A NCAC 02P .0402		10:19 NCR 2512								
15A NCAC 02Q .0102			11:06 NCR 350	*						
15A NCAC 02Q .0102	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0104	10:24 NCR 2400		11:08 NCR 472	*						
15A NCAC 02Q .0107	10:18 NCR 2400		11:08 NCR 472	*						
15A NCAC 02Q .0507	10:24 NCR 2400		11:08 NCR 472	S/L						

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15A NCAC 02Q .0512	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0514	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0515	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0517	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0700	11:08 NCR 442									
NPDES Permits										11:06 NCR 317
NPDES Permits										11:07 NCR 406
Health Services, Commission for										
15A NCAC 13B .1627	11:08 NCR 442		11:13 NCR 1055	*						
15A NCAC 13B .1800	11:08 NCR 442									
15A NCAC 13C .0301	10:18 NCR 2317		11:06 NCR 357	*	Approve	09/19/96	*		11:14 NCR 1156	
15A NCAC 13C .0302	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0303	10:18 NCR 2317		11:06 NCR 357	*	Approve	09/19/96	*		11:14 NCR 1156	
15A NCAC 13C .0304	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0305	10:18 NCR 2317		11:06 NCR 357	*	Approve	09/19/96	*		11:14 NCR 1156	
15A NCAC 13C .0306	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0307	10:18 NCR 2317		11:06 NCR 357	*	Approve	09/19/96	*		11:14 NCR 1156	
15A NCAC 13C .0308	10:18 NCR 2317		11:06 NCR 357	*	Approve	09/19/96	*		11:14 NCR 1156	
15A NCAC 18A	11:04 NCR 183									
15A NCAC 18A .0134	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0136	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0137	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0159	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0168	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0169	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0173	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0174	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0175	11:08 NCR 442		11:12 NCR 987	*						

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15A NCAC 18A .0176	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0182	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0183	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0184	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0185	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0186	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0187	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0301	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0302	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0401	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0421	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0424	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0425	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0614	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0615	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0616	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0617	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0618	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0620	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0621	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0901	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1301	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1302	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1319	11-08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1805	11-04 NCR 183		11:09 NCR 576	*						
15A NCAC 18A .1814					Approve	04/18/96			11:04 NCR 209	
15A NCAC 18A .2601		11:01 NCR 24	11:05 NCR 273	*						
15A NCAC 18A .2701					Approve	06/20/96	*		11:08 NCR 536	

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15A NCAC 20D .0243					Approve	04/18/96			11-04 NCR 209	
15A NCAC 21H .0111		11-06 NCR 371								
15A NCAC 21H .0113		11-06 NCR 371								
15A NCAC 21H .0101		11-07 NCR 422								
15A NCAC 21J .0101		11-07 NCR 422								
Marine Fisheries Commission										
15A NCAC 03	11-11 NCR 881									
15A NCAC 03I .0001	11-07 NCR 407		11-11 NCR 888	*						
15A NCAC 03I .0005	11-07 NCR 407		11-11 NCR 888	*						
15A NCAC 03I .0019			10-21 NCR 2737	*	Approve	05/16/96	*			
15A NCAC 03J .0202	11-07 NCR 407		11-11 NCR 888	*						
15A NCAC 03J .0401			10-21 NCR 2688	*	Approve	05/16/96	*			
15A NCAC 03L .0102	11-07 NCR 407		11-11 NCR 888	*						
15A NCAC 03L .0201	11-07 NCR 407		11-11 NCR 888	*						
15A NCAC 03M .0202	11-03 NCR 110	11-11 NCR 938		*						
15A NCAC 03M .0204		11-14 NCR 1153								
15A NCAC 03M .0503	11-07 NCR 407		11-11 NCR 938	*						
15A NCAC 03M .0504	11-03 NCR 110	11-11 NCR 938		*						
15A NCAC 03M .0506	11-07 NCR 407	11-11 NCR 938		*						
15A NCAC 03M .0507				*						
15A NCAC 03M .0511	11-03 NCR 110	11-11 NCR 938		*						
15A NCAC 03R .0006	11-07 NCR 407		11-11 NCR 888	*						
15A NCAC 03R .0007	11-07 NCR 407		11-11 NCR 888	*						
Parks and Recreation										
15A NCAC 12B .1206	10-18 NCR 2317		11-12 NCR 985	*						
Soil and Water Conservation										
15A NCAC 06E .0002	11-08 NCR 442		11-12 NCR 979	*						
15A NCAC 06E .0002		11-12 NCR 1004								

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15A NCAC 06E .0003	11:08 NCR 442		11:12 NCR 979	*						
15A NCAC 06E .0005		11:12 NCR 1004								
Wildlife Resources Commission										
15A NCAC 10B .0106	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0113	11:07 NCR 408		11:12 NCR 983	*						
15A NCAC 10B .0115	11:07 NCR 408		11:12 NCR 984	*						
15A NCAC 10B .0115	11:11 NCR 882									
15A NCAC 10B .0116	11:12 NCR 959									
15A NCAC 10B .0123	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0203	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0208	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0209	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10C .0107	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10C .0205	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10C .0305	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10C .0401	11:02 NCR 76									
15A NCAC 10C .0401	11:07 NCR 408									
15A NCAC 10D .0002	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10D .0003	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10F .0102	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0103	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0104	10:19 NCR 2506		11:01 NCR 14	*	Approve	08/15/96	*		11:12 NCR 1006	
15A NCAC 10F .0105	10:19 NCR 2506		11:01 NCR 14	*	Approve	08/15/96	*		11:12 NCR 1006	
15A NCAC 10F .0106	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0107	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0109	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0300	11:01 NCR 13		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0302	11:05 NCR 272		11:14 NCR 1150	*						

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15A NCAC 10F .0303	10:24 NCR 3057		11:06 NCR 355	*	Approve	09/19/96			11:14 NCR 1156	
15A NCAC 10F .0305	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96			11:10 NCR 843	
15A NCAC 10F .0307	11:02 NCR 76		11:07 NCR 412	*						
15A NCAC 10F .0307	11:08 NCR 451		11:14 NCR 1150	*						
15A NCAC 10F .0310	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96			11:10 NCR 843	
15A NCAC 10F .0310	10:24 NCR 3057		11:06 NCR 355	*	Approve	09/19/96			11:14 NCR 1156	
15A NCAC 10F .0317	11:13 NCR 1039									
15A NCAC 10F .0327	11:14 NCR 1109									
15A NCAC 10F .0339	11:13 NCR 1039									
15A NCAC 10F .0342	10:19 NCR 2506		11:01 NCR 14	*	Withdrawn/Agcy	07/18/96				
15A NCAC 10F .0348	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10G	11:01 NCR 13									
15A NCAC 10G .0100	11:02 NCR 76									
15A NCAC 10G .0102	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0103	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0202	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0203	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0206	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0302	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0303	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0401	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0402	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0403	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0404	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0501	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 101 .0001	10:22 NCR 2829		11:04 NCR 191	*	Approve	09/19/96			11:14 NCR 1156	
15A NCAC 101 .0002	11:02 NCR 76		11:08 NCR 495	*						
Wildlife Proclamation										

11:03 NCR 104

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Wildlife Proclamation

FINAL DECISION LETTERS

Voting Rights Act

Voting Rights Act

Voting Rights Act

Voting Rights Act

Voting Rights Act

11:04 NCR 182

11:01 NCR 1

11:04 NCR 181

11:06 NCR 315

11:07 NCR 405

11:13 NCR 1038

GENERAL CONTRACTORS LICENSING BOARD

21 NCAC 12.0204 10:22 NCR 2829 11:06 NCR 372 11:09 NCR 583 *

21 NCAC 12.0503 10:22 NCR 2829 11:06 NCR 372 11:09 NCR 584 *

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Number 95 - Eff. 04/24/96

Number 96 - Eff. 06/14/96

Number 97 - Eff. 07/12/96

Number 98 - Eff. 08/09/96

Number 99 - Eff. 09/05/96

Number 100 - Eff. 09/12/96

Number 101 - Eff. 09/12/96

11:05 NCR 270

11:08 NCR 441

11:10 NCR 817

11:11 NCR 880

11:14 NCR 1101

11:14 NCR 1101

11:14 NCR 1101

HOUSING FINANCE AGENCY

24 NCAC 01P .0101

24 NCAC 01P .0102

24 NCAC 01P .0103

24 NCAC 01P .0201

24 NCAC 01P .0202

24 NCAC 01P .0203

11:14 NCR 1154

11:14 NCR 1154

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11:14 NCR 1154

11:14 NCR 1154

HUMAN RESOURCES

10 NCAC 41P .0013 11:06 NCR 323

11:12 NCR 966

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11:08 NCR 528

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Aging										
10 NCAC 22	10:23 NCR 2956									
Child Day Care Commission										
10 NCAC 03U .0102		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .0604	11:03 NCR 109		11:09 NCR 571	*						
10 NCAC 03U .0700	11:08 NCR 449									
10 NCAC 03U .0704	10:19 NCR 2506		11:04 NCR 188	*						
10 NCAC 03U .0705	11:14 NCR 1108									
10 NCAC 03U .0710	10:22 NCR 2829		11:04 NCR 188	*						
10 NCAC 03U .0901	11:08 NCR 449									
10 NCAC 03U .1717	11:14 NCR 1108									
10 NCAC 03U .2510	11:08 NCR 449									
10 NCAC 03U .2606	11:08 NCR 449									
10 NCAC 03U .2701		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2702		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2703		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2704		10:20 NCR 2593	11:10 NCR 819	S						
Facility Services										
10 NCAC 03	10:18 NCR 2399									11:11 NCR 888
10 NCAC 03R .3001		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3001	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3010		10:21 NCR 2699	11:08 NCR 452	S/L/SE						11:11 NCR 888
10 NCAC 03R .3020		10:21 NCR 2699	11:08 NCR 452	S/L/SE						11:11 NCR 888
10 NCAC 03R .3020	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3030		10:21 NCR 2699	11:08 NCR 452	S/L/SE						11:11 NCR 888
10 NCAC 03R .3030	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3032		10:21 NCR 2699	11:08 NCR 452	S/L/SE						11:11 NCR 888
10 NCAC 03R .3032	10:23 NCR 2956		11:06 NCR 328	S/L/SE						

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10 NCAC 03R .3040		10:21 NCR 2699	11:08 NCR 452	S/LSE						11:11 NCR 888
10 NCAC 03R .3040	10:23 NCR 2956		11:06 NCR 328	S/LSE						11:11 NCR 888
10 NCAC 03R .3050		10:21 NCR 2699	11:08 NCR 452	S/LSE						
10 NCAC 03R .3050	10:23 NCR 2956		11:06 NCR 328	S/LSE						
Medical Assistance										
Disproportionate Share List										
10 NCAC 26B .0105	10:18 NCR 2398		10:22 NCR 2831	*	Approve	04/18/96	*		11:04 NCR 207	11:03 NCR 101
10 NCAC 26G .0707	11:08 NCR 450									
10 NCAC 26H .0101	11:14 NCR 1108									
10 NCAC 26H .0102	11:14 NCR 1108									
10 NCAC 26H .0506		11:02 NCR 77								
10 NCAC 26H .0506	10:21 NCR 2686									
10 NCAC 26H .0602	11:09 NCR 569	11:13 NCR 1062		S/L						
10 NCAC 50B .0202		11:10 NCR 841								
10 NCAC 50B .0404		11:10 NCR 841								
10 NCAC 50B .0409		11:10 NCR 841								11:06 NCR 316
10 NCAC 50D										
10 NCAC 50D .0101	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0102	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0103	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0201	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0301	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0302	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0401	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0402	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0501	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0502	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0503	10:24 NCR 3057	11:04 NCR 196								

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Medical Care Commission

10 NCAC 03C .6208

Approve 04/18/96

11-04 NCR 206

Mental Health, Developmental Disabilities and Substance Abuse Services

10 NCAC 14V .3402	11-08 NCR 449		11-14 NCR 1124	*						
10 NCAC 14V .3803	11-08 NCR 449		11-14 NCR 1124	*						
10 NCAC 14V .5602	11-08 NCR 449		11-14 NCR 1124	*						
10 NCAC 15A .0128	11-08 NCR 449		11-14 NCR 1124	*						
10 NCAC 15A .0129	11-08 NCR 449		11-14 NCR 1124	*						
10 NCAC 18W .0201	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0202	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0203	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0204	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0205	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0206	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0207	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0208	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0209	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0210	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0211	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0212	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0213	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0214	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0215	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0216	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0217	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0218	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 18W .0219	10-15 NCR 1478		11-14 NCR 1124	S						
10 NCAC 45H .0200	11-08 NCR 449		11-14 NCR 1124	S						

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Social Services Commission										
10 NCAC 41F	10:23 NCR 2956		11:03 NCR 111	L	Approve	07/18/96	*		11:15 NCR 0000	
10 NCAC 41F .0705	10:23 NCR 2956		11:03 NCR 111	*	Approve	07/18/96				
10 NCAC 41F .0706		10:21 NCR 2726	11:03 NCR 111	S	Object	07/18/96	*		11:15 NCR 0000	
10 NCAC 41F .0707		10:21 NCR 2726	11:03 NCR 111		Approve	09/19/96			11:15 NCR 0000	
10 NCAC 41F .0812		10:21 NCR 2726	11:03 NCR 111	*	Approve	07/18/96			11:15 NCR 0000	
10 NCAC 41F .0813		10:21 NCR 2726	11:03 NCR 111	S	Object	07/18/96	*		11:15 NCR 0000	
					Approve	09/19/96			11:15 NCR 0000	
10 NCAC 41F .0814	10:23 NCR 2956		11:03 NCR 111	L	Object	07/18/96	*		11:15 NCR 0000	
					Approve	09/19/96			11:15 NCR 0000	
10 NCAC 41I .0100	10:17 NCR 2228									
10 NCAC 41I .0102	10:17 NCR 2228		10:21 NCR 2687	*						
10 NCAC 41P .0002	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0005	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0006	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0008	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0009	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0010	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0011	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0012	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 42A .0701		10:21 NCR 2728	11:10 NCR 823	S/L/SE						
10 NCAC 42A .0702		10:21 NCR 2728	11:10 NCR 823	*						
10 NCAC 42A .0703		10:21 NCR 2728	11:10 NCR 823	*						
10 NCAC 42B .1209		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B .1210		10:21 NCR 2729	11:12 NCR 967	S/L						
10 NCAC 42B .1211		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B .2402		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B .2403		10:21 NCR 2729	11:12 NCR 967	*						

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10 NCAC 42B .2404		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B .2405		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .2010		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .2011		10:21 NCR 2729	11:12 NCR 967	S/L						
10 NCAC 42C .2012		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .3701		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .3702		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .3703		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .3704		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1409		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1410		10:21 NCR 2729	11:12 NCR 967	S/L						
10 NCAC 42D .1411		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1827		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1828		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1829		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1830		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42V .0201		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 42V .0802		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 42V .0803		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 49A .0002		11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 49B .0202		11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 49B .0310		11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 49B .0502		11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 49C .0107		10:18 NCR 2402								
Vocational Rehabilitation Services										
10 NCAC 20B .0204	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0205	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0206	11:08 NCR 450		11:13 NCR 1051	*						

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10 NCAC 20B .0208	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0209	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0210	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0214	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0218	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0222	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0224	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0226	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0227	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20C .0603	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20D .0204	11:08 NCR 450		11:13 NCR 1051	*						
INSURANCE										
11 NCAC 12 .0551	10:18 NCR 2399		10:22 NCR 2831	*	Approve	05/16/96	*		11:05 NCR 283	
11 NCAC 16 .0703	10:18 NCR 2399		10:22 NCR 2832	*	Approve	05/16/96			11:05 NCR 284	
JUSTICE										
Attorney General/Company Police										
12 NCAC 021 .0101										
12 NCAC 021 .0206										
12 NCAC 021 .0210										
Alarm Systems Licensing Board										
12 NCAC 11 .0202	10:24 NCR 3057		11:14 NCR 1136	*						
Criminal Justice Education and Training Standards Commission										
12 NCAC 09A .0103	11:14 NCR 1109									
12 NCAC 09B .0102	11:14 NCR 1109									
12 NCAC 09B .0111	11:14 NCR 1109									
12 NCAC 09B .0206	11:14 NCR 1109									
12 NCAC 09B .0224	11:14 NCR 1109									
12 NCAC 09B .0225	11:14 NCR 1109									

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12 NCAC 09B .0409	11:14 NCR 1109									
12 NCAC 09C .0304	11:14 NCR 1109									
12 NCAC 09C .0307	11:14 NCR 1109									
12 NCAC 09C .0309	11:14 NCR 1109									
12 NCAC 09C .0601	11:14 NCR 1109									
12 NCAC 09C .0602	11:14 NCR 1109									
12 NCAC 09C .0603	11:14 NCR 1109									
12 NCAC 09C .0604	11:14 NCR 1109									
12 NCAC 09C .0605	11:14 NCR 1109									
12 NCAC 09C .0606	11:14 NCR 1109									
Private Protective Services Board										
12 NCAC 07D	11:10 NCR 818									
12 NCAC 07D .0201	11:10 NCR 818									
12 NCAC 07D .0204	11:14 NCR 1108									
12 NCAC 07D .0504	11:10 NCR 818									
12 NCAC 07D .0701	11:10 NCR 818									
12 NCAC 07D .0801	11:10 NCR 818									
12 NCAC 07D .0902	11:10 NCR 818									
12 NCAC 07D .1106	11:14 NCR 1108									
State Bureau of Investigation/Division of Criminal Information										
12 NCAC 04E .0103	11:11 NCR 881									
LABOR										
Occupational Safety and Health										
13 NCAC 07A .0900	11:11 NCR 881									
13 NCAC 07F	11:03 NCR 106									
13 NCAC 07F .0101		11:03 NCR 119								
13 NCAC 07F .0201	11:03 NCR 106									
13 NCAC 07F .0201	11:09 NCR 568									

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13 NCAC 07F .0301	11-03 NCR 106									
MEDICAL BOARD										
21 NCAC 32H	10-18 NCR 2400									
21 NCAC 32H .0101	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0102	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0201	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0203	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			
21 NCAC 32H .0301	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0302	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0303	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0401	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0402	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0403	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0404	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0406	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0407	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0408	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0409	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0501	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0502	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0504	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0505	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0506	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0507	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0601	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0602	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0701	10-18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0702	10-18 NCR 2400		10:22 NCR 2835	*	Object	04/18/96	*		Returned to Agency 6/20/96	

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					Action	Date				
21 NCAC 32H .0801	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0901	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0902	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96			11:04 NCR 221	
NURSING, BOARD OF										
21 NCAC 36 .0320	11:14 NCR 1109									
NURSING HOME ADMINISTRATORS										
21 NCAC 37D .0202		11:11 NCR 940								
21 NCAC 37G .0102		11:11 NCR 940								
PSYCHOLOGY BOARD										
21 NCAC 54 .2704					Approve	04/18/96			11:04 NCR 236	
21 NCAC 54 .2706					Approve	04/18/96			11:04 NCR 236	
PUBLIC EDUCATION										
16 NCAC 01A .0001					Approve	05/16/96			11:05 NCR 286	
16 NCAC 01A .0003					Approve	05/16/96			11:05 NCR 283	
Standards Board for Public School Administration										
16 NCAC 07 .0101	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0102	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0103	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0104	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0105	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0106	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0107	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0108	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0109	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0110	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0111	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0112	10:23 NCR 2957		11:09 NCR 576	*						

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					Action	Date				
REAL ESTATE COMMISSION										
21 NCAC 58A .0101	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0104	11:07 NCR 408		11:11 NCR 935	*						
21 NCAC 58A .0105	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0109	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0110	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0302	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0503	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0504	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1501	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1502	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1601	10:22 NCR 2835		11:03 NCR 114	*						
REFRIGERATION EXAMINERS										
21 NCAC 60 .0204	11:05 NCR 272		11:10 NCR 839	*						
21 NCAC 60 .0207	11:05 NCR 272		11:10 NCR 839	*						
21 NCAC 60 .0314	11:05 NCR 272		11:10 NCR 839	*						
REVENUE										
17 NCAC 01C .0504		10:20 NCR 2599		*	Object Approve	08/15/96 09/19/96			11:14 NCR 1156	
17 NCAC 01C .0506		10:20 NCR 2599		*	Approve	08/15/96				
17 NCAC 01C .0506			11:10 NCR 838	*						
17 NCAC 05C .0102			11:03 NCR 113 11:09 NCR 582	*						
17 NCAC 05C .2101			10:24 NCR 3059	*	Approve	05/16/96	*		11:05 NCR 284	
17 NCAC 06B .0612			10:22 NCR 2833	*	Approve	04/18/96	*		11:04 NCR 211	
17 NCAC 06B .3716			10:22 NCR 2833	*	Approve	04/18/96	*		11:04 NCR 211	
17 NCAC 07B .0118			11:12 NCR 998	*						
17 NCAC 07B .1101			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	

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					Action	Date				
17 NCAC 07B .1105			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1108			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1109			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1110			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1112			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1114			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1123			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1602			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1602			11:12 NCR 998	*						
17 NCAC 07B .1701			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1702			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1702			11:12 NCR 998	*						
17 NCAC 07B .1802			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1802			11:12 NCR 998	*						
17 NCAC 07B .2401			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .2601			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .3103			11:12 NCR 998	*						
17 NCAC 07B .3106			11:12 NCR 998	*						
17 NCAC 07B .4002			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .4004			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .4008			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .4202			11:12 NCR 998	*						
17 NCAC 07B .4301			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .4408			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .4501			11:12 NCR 998	*						
17 NCAC 07B .4902			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
Tax Review Board										11:02 NCR 72
Tax Review Board										11:06 NCR 318

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Tax Review Board

SOCIAL WORK, BOARD OF

21 NCAC 63 .0306

10:21 NCR 2739 11:03 NCR 118

*

11:14 NCR 1104

SOIL SCIENTISTS, BOARD FOR LICENSING

21 NCAC 69 .0101

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

21 NCAC 69 .0102

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

Approve

09/19/96

11:14 NCR 1156

21 NCAC 69 .0103

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

21 NCAC 69 .0104

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

Approve

09/19/96

11:14 NCR 1156

21 NCAC 69 .0201

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

21 NCAC 69 .0202

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

Approve

09/19/96

11:14 NCR 1156

21 NCAC 69 .0301

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

21 NCAC 69 .0302

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

Approve

09/19/96

11:14 NCR 1156

21 NCAC 69 .0303

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

21 NCAC 69 .0304

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

Approve

09/19/96

11:14 NCR 1156

21 NCAC 69 .0305

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

21 NCAC 69 .0306

10:19 NCR 2507 11:04 NCR 200

11:04 NCR 200

*

Approve

09/19/96

11:14 NCR 1156

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					Action	Date				
21 NCAC 69 .0307	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0308	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*	Approve	09/19/96			11:14 NCR 1156	
21 NCAC 69 .0401	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0402	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0501	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*	Approve	09/19/96	*		11:14 NCR 1156	
STATE PERSONNEL COMMISSION										
25 NCAC 01D .2501		11:13 NCR 1062								
25 NCAC 01D .2503		11:13 NCR 1062								
25 NCAC 01D .2504		11:13 NCR 1062								
25 NCAC 01D .2505		11:13 NCR 1062								
25 NCAC 01D .2507		11:13 NCR 1062								
25 NCAC 01D .2508		11:13 NCR 1062								
25 NCAC 01D .2509		11:13 NCR 1062								
25 NCAC 01D .2511		11:13 NCR 1062								
25 NCAC 01D .2513		11:13 NCR 1062								
25 NCAC 01D .2514		11:13 NCR 1062								
25 NCAC 01D .2516		11:13 NCR 1062								
25 NCAC 01E .0705	11:14 NCR 1110									
25 NCAC 01E .0707	11:14 NCR 1110									
25 NCAC 01E .0709	11:14 NCR 1110									
25 NCAC 01J .0613		10:23 NCR 2960								
25 NCAC 01J .0613					Approve	03/21/96			11:01 NCR 26	
SUBSTANCE ABUSE PROFESSIONALS CERTIFICATION BOARD										

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					Action	Date				
21 NCAC 68	10:18 NCR 2401									
21 NCAC 68 .0101	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0102	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0201	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0202	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0203	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0204	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0205	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0206	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0207	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0208	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0209	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0210	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0211	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0212	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0213	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0401	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0402	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0403	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0404	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0405	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0406	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0407	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0701	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0702	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0703	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0704	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0705	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	

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21 NCAC 68.0706	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68.0707	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68.0708	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68.0709	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
TRANSPORTATION										
19A NCAC 06B.0401	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0402	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0403	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0404	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0405	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0406	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0407	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0408	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0409	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0410	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0411	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0412	10:23 NCR 2957		11:05 NCR 279	S	Object Approve	08/15/96 09/19/96	*		11:14 NCR 1156	
19A NCAC 06B.0413	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0414	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0415	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0416	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0417	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
Highways, Division of										
19A NCAC 02D.0425					Approve	08/15/96			11:12 NCR 1006	
19A NCAC 02D.1101	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D.1102	10:23 NCR 2957		11:05 NCR 274	*	Object Approve	08/15/96 09/19/96	*		11:14 NCR 1156	

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					Action	Date				
19A NCAC 02D .1103	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1104	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1105	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1106	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D .1107	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D .1108	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96	*		11:14 NCR 1156	
19A NCAC 02D .1109	10:23 NCR 2957		11:05 NCR 274	*	Approve	09/19/96	*		11:12 NCR 1006	
19A NCAC 02D .1110	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1111	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96	*		11:14 NCR 1156	
19A NCAC 02D .1112	10:23 NCR 2957		11:05 NCR 274	*	Approve	09/19/96				
Motor Vehicles, Division of										
19A NCAC 03E .0500	11:01 NCR 13									
19A NCAC 03E .0501	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0502	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0510	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0511	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0512	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0513	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0514	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0515	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0518	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0519	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0522	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03J .0101	11:11 NCR 882									
19A NCAC 03J .0201	11:11 NCR 882									
19A NCAC 03J .0306	11:11 NCR 882									
19A NCAC 03J .0307	11:11 NCR 882									
19A NCAC 03J .0601	11:11 NCR 882									

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